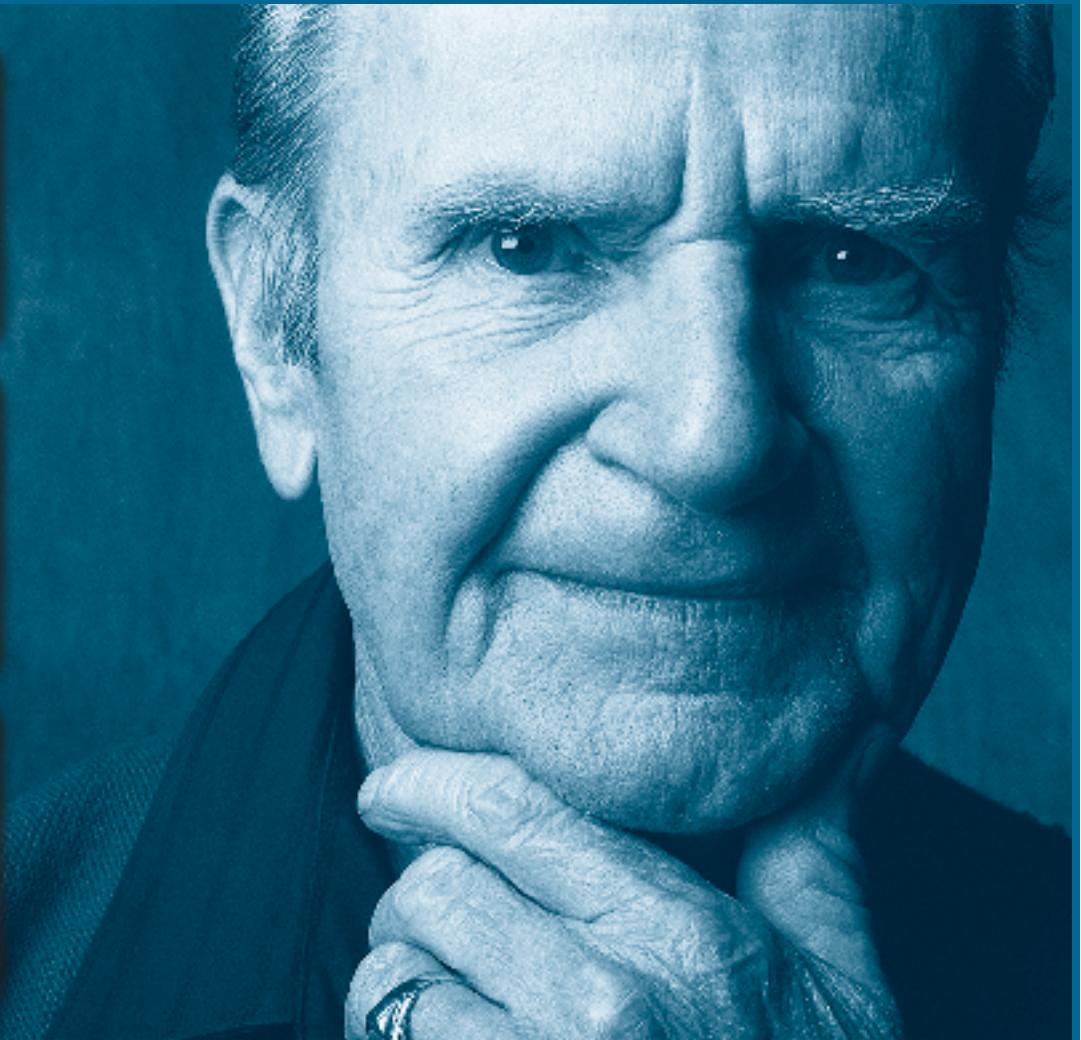


*North Carolina State*  
**Long Term Care Ombudsman Program**



*2007 Annual Report*

*Promoting quality of life  
and quality of care  
for long term care residents.*





**North Carolina Department of Health and Human Services  
Division of Aging and Adult Services**

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Michael F. Easley, Governor  
Dempsey Benton, Secretary

Dennis W. Streets  
Director

I am pleased to present the North Carolina Long Term Care Ombudsman Program's 2007 Annual Report for federal fiscal year October 1, 2006 through September 30, 2007.

This Annual Report highlights the many ways that local community advisory committee volunteers, Regional Ombudsmen and the Office of State Long Term Care Ombudsman have worked to protect residents' rights, empower families and educate consumers about long term care issues and options.

North Carolina General Statute §§ 143B-181.18(8) requires the Office of the State Long Term Care Ombudsman to prepare an annual report that reflects current complaint data along with any recommendations for addressing long term care issues identified. Information is also included about the Long Term Care Ombudsman Program's successful completion of public education events, community involvement efforts, elder abuse prevention activities and ongoing state level initiatives.

The North Carolina Long Term Care Ombudsman Program had a very busy and productive year in 2007. I invite you to contact me if you have questions or comments about our Annual Report.

Sincerely,

A handwritten signature in black ink, reading "Sharon C. Wilder".

Sharon C. Wilder  
State Long Term Care Ombudsman



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## *Comments from a new Regional Ombudsman*

Tenesha Moore,  
Regional Ombudsman

While I have only been a Regional Long Term Care Ombudsman for a short period of time, I already know that my facility visits have changed one resident's quality of life. "Mrs. D" is a resident of one of the nursing homes that I visit. During one of my visits to see her, she talked to me about all of her complaints and I told her everything that I was doing to ensure her the best possible quality of life. As I was leaving her room, she grabbed my hand tightly, looked me in my eyes and said "Sweetheart, I am truly grateful for you. I appreciate everything that you're doing for me. The world needs more kind people like you." When I heard those words, I knew for sure that being an Ombudsman was the right job for me. Making someone else happy makes me happy also. It was then that I realized that as Ombudsmen, "we are changing the world one elder at a time."

## **2007 Services Overview**

October 1, 2006 – September 30, 2007

### **State and Regional Long Term Care Ombudsman Program**

<b>3,238</b>	Complaints handled by the LTC Ombudsman Program
<b>1,588</b>	Complainants assisted by State and Regional LTC Ombudsmen
<b>8,758</b>	Resident visits made in adult care homes and nursing homes
<b>544</b>	Facility licensure surveys observed
<b>125</b>	Resident Council meetings attended
<b>87</b>	Family Council meetings attended
<b>18,164</b>	Individuals provided with technical assistance on LTC issues
<b>6,777</b>	Consultations to LTC providers
<b>531</b>	Training sessions provided for staff in LTC Facilities
<b>792</b>	Community education sessions provided
<b>3,779</b>	Hours spent training community advisory committee members and new ombudsmen



## 2007—the Year in Review



North Carolina now has 35.6 FTE Regional Long Term Care Ombudsmen who provide advocacy and informal grievance resolution services to approximately 89,000 long term care residents living in 1,736 long term care facilities. Eight (8) new

regional ombudsmen were hired with funds appropriated for the Long Term Care Ombudsman Program in the 2006 Short Session of the N.C. General Assembly. The Division of Aging and Adult Services allocated the funds for the new positions to Area Agencies on Aging with the greatest need for staff. In some regions, the allocation supported a 50%-60% FTE (full-time equivalent) position while other Area Agencies on Aging used the funds to hire full-time staff. Between April and December 2007, the Long Term Care Ombudsman Program focused on providing the required five-day certification training in a timely manner so that each newly hired regional ombudsman could become certified as quickly as possible.

Other notable accomplishments this year included partnering with the Division of Health Service Regulation, Licensure and Certification Section and the Carolinas Center for Medical Excellence to co-host statewide training that addressed strategies for restraint reduction in nursing facilities. Three sessions were conducted across the state for over 600 providers. Regional Ombudsmen conducted a session that addressed developing educational programs and communication techniques for working with families as part of a nursing facility's planned internal restraint reduction program.

Frequently Regional LTC Ombudsmen connect with different organizations in the community to assist in enhancing the lives of persons with dementia. The following is an example of an Ombudsman's involvement with an area museum.

### *Connections*

#### Providing An Opportunity When 'Connections' Are Fading

The Louise Wells Cameron Art Museum in Wilmington, NC used a \$10,000 grant received from the Cape Fear Memorial Foundation to develop and launch art experience tours exclusively for persons with moderate dementia. It is thought that the Boston and New York major art museums may be the only other art museums that offer programs focused on sharing art with persons with disabilities.

In forming The Advisory Board for Connections, the Louise Wells Cameron Art Museum invited participation by family members, in-home and long term care providers, and the Regional Ombudsman. The Connections program offers these unique tours on the first and third Monday of each month during times when the Gallery is closed to the public. The tours accommodate small groups, and each participant is escorted by their caregiver and specially trained museum docents.

This new program has been profoundly successful. A minimum of 156 persons have experienced art through Connections in less than a year. Visitors have enjoyed the serene beauty of the work of Mary Cassatt, and the fabulously colorful costumes designed by William Ivey Long for the *Mirage* in Las Vegas.

Recently, as one tour guest passed a selection of American art, she turned – raised her hands high over her head – and said very clearly to the surprise of her caregiver “You know, I used to sculpt in clay.” It is hoped that Connections will be a permanent resource that can enrich the lives of persons with dementia who call southeastern North Carolina home.

**[www.cameronartmuseum.com](http://www.cameronartmuseum.com)**

H. Harvin Quidas,  
Region O Ombudsman

Collaborative meetings between Division of Health Service Regulation and the Office of State Long Term Care Ombudsman yielded a successfully negotiated expansion of a long-standing Memorandum of Agreement for information sharing. The Memorandum of Agreement includes access to annual adult care home licensure surveys for the Long Term Care Ombudsman Program representatives. It also broadens interaction between adult care home state surveyors and regional ombudsmen. Since being implemented, many regional ombudsmen have reported that receiving the latest state surveys has been a tremendous help to them in completing the circle of communication with area adult care home providers.

Another major project this year was the completion of a comprehensive evaluation of the Office of State Long Term Care Ombudsman. Seven (7) of the seventeen (17) area agency on aging directors and twenty (20) of the thirty (30) regional long term care ombudsmen completed an online survey that included 60 questions designed to identify State Office strengths as well as any areas of improvement needed in the program. The Center for Aging Research and Educational Services (CARES) at UNC-Chapel Hill conducted an independent analysis of the data to protect the confidentiality of the respondents. Survey results indicated an overall high rate of satisfaction with the Office of State Long Term Care Ombudsman. A small workgroup composed of four AAA Directors, five Regional Ombudsmen and three State Office staff was convened to develop strategies and tools to strengthen the state's community advisory committees, a network of local volunteer advocates. The workgroup will also help update the Long Term Care Ombudsman Program Policies and Procedures.

Representatives from both the State Office of Long Term Care Ombudsman and the N. C. AAA Regional Ombudsman Association provided staff support, planning and coordination along with other

stakeholders for the Friends of Residents' in Long Term Care Education Committee, which was assigned to put together the Fifth Biennial Long Term Care Public Policy Conference and LTC Advocacy Day. The 2007 Conference focused on current policy issues related to addressing the needs of persons with mental illness in long term care facilities, respite care for family caregivers, and the development of a star rating system for adult care homes. Over 200 participants attended an Issues Briefing hosted by State Representative Beverly Earle during which they were provided up-to-date information that highlighted:

- the needs of adults with mental illnesses residing in long term care facilities,
- resources for families providing long term care for relatives in the community, and
- plans for establishing a star rating system for consumers to use in evaluating the quality of care in adult care homes.

The LTC Advocacy Day ended with participation in a legislative hearing hosted by State Representative Jean Farmer-Butterfield.

The State Long Term Care Ombudsman Program also concluded the fourth successful year of work with **Strategic Alliances for Elders in Long Term Care (S.A.F.E.)**, a state-level initiative focused on the development of a collaborative partnership with law enforcement agencies and courts of competent jurisdiction. In addition to regular quarterly meetings, the Voiceless Victims curriculum was taught twice during 2007, once at the Salemburg Campus and once at the Edneyville Campus of the NC Justice Academy. Approximately 78 law enforcement officers and other service professionals have completed the course. Student course evaluations indicated that educational materials presented throughout the course were readily put to use by investigators when they returned to their communities.



A post-course evaluation was conducted using an internet survey tool that captured the thoughts and opinions of all participants who have completed the course to date. The survey was designed to assess the course's impact on the day-to-day work of law enforcement officers with the long term care population. We received a 20% response rate and gained valuable information regarding new knowledge acquisition, practical application and additional specialized training topics to address elder crimes.

Select modules from the Voiceless Victims course were presented twice in community settings at the request of regional ombudsmen who were conducting elder abuse awareness conferences. The audiences included long term care professionals, law enforcement officers, social services staff, emergency responders, community advisory committee members, and other concerned citizens. These workshops had over 100 participants.

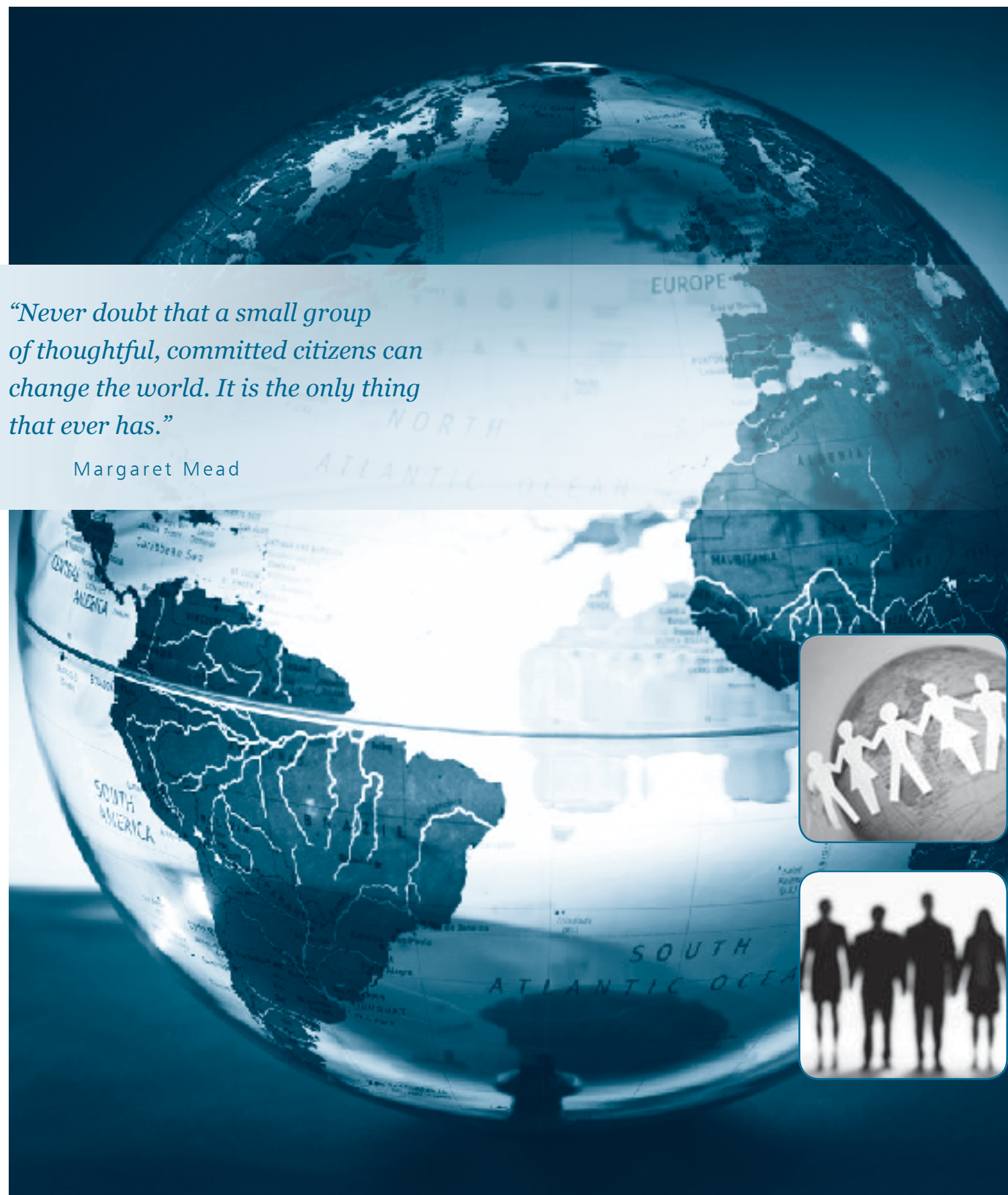
Presentations were made on the S.A.F.E. Task Force and Voiceless Victims course at the N.C. Association on Aging Conference and the N. C. Conference on Aging. Each workshop attracted individuals interested in forming stronger coalitions to address issues of crimes against elders in both the community and long term care settings. The group was also very excited that their proposal to present at the National Citizens Coalition for Nursing Home Reform Annual Conference was accepted. The S.A.F.E. Chairperson, State Long Term Care Ombudsman and a Task Force member presented a ninety-minute workshop on the creation and activities of S.A.F.E. in late October, 2007.

Lorraine Galloway, a key S.A.F.E. Task Force member and the North Carolina Justice Academy that hosts the training received the 2007 Outstanding Service Organization Award presented by the Southeastern Association of Area Agencies on Aging for their active role with the S.A.F.E. in LTC Task Force. The N. C. Association of Area Agencies

on Aging submitted the nomination which emphasized Ms. Galloway's tireless efforts and consistent direction during the development of the Voiceless Victims course, which took over a year. The nomination commended the North Carolina Justice Academy for taking proactive measures to support the concept that long term care facilities and residents are part of the community and deserve the same protections and considerations from law enforcement as the rest of society.

The Task Force has begun work on a second goal which will be the development of a customized course for long term care providers. This new course will offer basic information and guidance to providers about what to expect from law enforcement officers when they enter facilities in response to criminal complaints. Another desired outcome from the course is to foster better communication and relationships between law enforcement officers and healthcare providers.

**The Resident Companion Program** continued to train volunteers to visit one-on-one with residents in nursing homes. In November 2007, The News and Observer newspaper in Raleigh published an article in which the State LTC Ombudsman spoke about the sense of loneliness and loss that residents in long term care facilities can sometimes feel. The Resident Companion Program was created to encourage regular visits with nursing home residents by a trained volunteer. After The News and Observer article was published by Thomas Goldsmith, the Division of Aging and Adult Services received telephone calls from individuals interested in volunteering. Also in 2007, some regional ombudsmen were convened as part of a focus group to brainstorm with the State Office regarding ways to expand this new program. Plans to hold more focus groups are underway for 2008. The Resident Companion Program also plans to expand to other counties and begin recruiting efforts for local volunteer coordinators across the state.



*“Never doubt that a small group of thoughtful, committed citizens can change the world. It is the only thing that ever has.”*

Margaret Mead



## Long Term Care Ombudsman Program History

The federal Older Americans Act established the Long Term Care Ombudsman Program in 1978.

Following the successful completion of pilot ombudsman programs in seven states, authorization for a national Long Term Care Ombudsman Program was enacted requiring that every state establish a Long Term Care Ombudsman Program. In subsequent years, further amendments to the Older Americans Act expanded the jurisdiction and scope of the Long Term Care Ombudsman Program to cover both nursing homes and adult care homes. The broader scope included the creation of a network of trained volunteers, an informal complaint resolution process and systems advocacy responsibilities related to problems impacting residents in long term care facilities.



In 1989, the North Carolina State Long Term Care Ombudsman Program was codified into state law through General Statute 143B-181.15-.25 which mirrors the federal mandates set forth in the Older Americans Act for the Program. The legislation includes the responsibilities of the Long Term Care Ombudsman Program administered through an Office of State Long Term Care Ombudsman as well as the functions of an Office of Regional Long Term Care Ombudsman Program. The North Carolina State Long Term Care Ombudsman Program is located in the Department of Health and Human Services, Division of Aging and Adult Services. The Regional Long Term Care Ombudsman Programs are housed in the 17 Area Agencies on Aging across the state.

## Long Term Care Ombudsman Program Purpose

The North Carolina Long Term Care Ombudsman Program's mission is to protect residents' rights and improve the quality of care and life for residents in long term care facilities by providing access and advocacy services that assist residents in protecting their health, safety, welfare, and rights.<sup>1</sup> The program provides information to citizens about the long term care system as well as assistance accessing services. The Long Term Care Ombudsman Program's mandated responsibilities are to:

- Receive and attempt to resolve complaints made by or on behalf of residents in long term care facilities;
- Provide information to the general public on long term care issues;
- Promote community involvement with long term care residents and facilities;
- Work with long term care providers to resolve issues of common concern;
- Assist long term care providers with staff training (particularly on Residents' Rights);
- Train and provide technical assistance to community advisory committee volunteers appointed by county commissioners;
- Collect and report data regarding the number of complaints handled and other program activities;
- Carry out activities for community education and prevention of elder abuse, neglect, and exploitation; and
- Provide information to public agencies, legislators, and others on problems impacting the rights of residents as well as make recommendations for resolution of issues identified.<sup>2</sup>

<sup>1</sup> 42 USC § 3001 et seq. A copy of relevant sections is attached as Appendix C.

<sup>2</sup> § 143B-181.150.25 et seq. A copy is attached as Appendix D.



## ***Community Advisory Committee with a Mission***

### **Buncombe County Adult Care Home Committee Announces Winner of the 2007 Activity Grant**

The Buncombe County Adult Care Home Community Advisory Committee developed a new Activity Grant in 2007. Applications were mailed to all family care homes during January and February, and also distributed to Buncombe County Department of Social Services Adult Home Specialists. The application cover featured a picture of a magic lamp with the title "YOUR WISH COULD BE GRANTED."

The committee requested that applicants submit proposals for a \$150 grant to be used to help fund a "worthy way" to enhance residents' quality of life.

Suggested ways included were:

- Underwrite a resident outing
- Fund a residents' garden
- Cover expenses for residents to attend a musical event, play or other social activity
- Use your imagination for something special for the residents.

A number of applications were received. A subcommittee reviewed the applications and selected a winner following the March 16th Buncombe County Adult Care Home Committee meeting.

The recipient of the \$150 grant for 2007 was: **GOLDEN MOMENTS  
FAMILY CARE HOME**

## **Program Organization**

The State Long Term Care Ombudsman Program is part of the Elder Rights and Special Initiatives Section in the Division of Aging and Adult Services within the North Carolina Department of Health and Human Services. The State Long Term Care Ombudsman, along with an Ombudsman Program Specialist and an Ombudsman/Elder Rights Specialist manage day-to-day program administration that includes ensuring all newly hired regional ombudsmen complete the required state certification process and that the Program is in compliance with mandates in the Older Americans Act as amended and N. C. General Statutes.

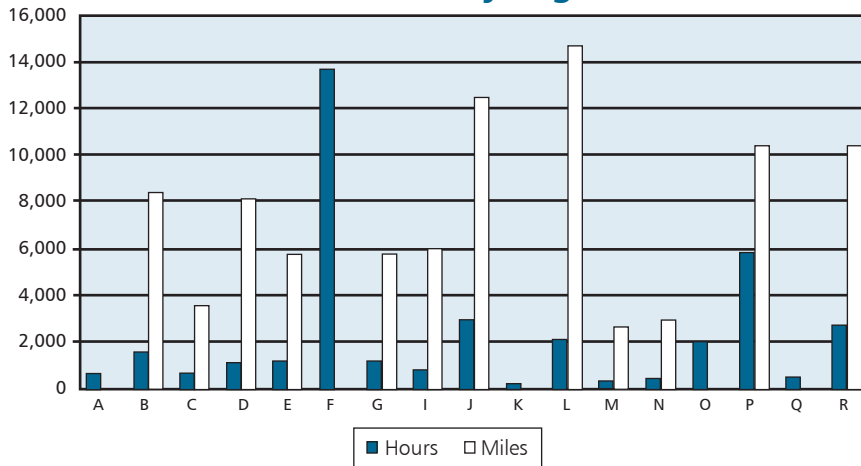
The Regional Long Term Care Ombudsmen are housed in the 17 Area Agencies on Aging across the state. The Area Agencies on Aging are in regional planning councils known as Councils of Government which were created by the N.C. General Assembly in the early 1970's. As a part of the Area Agency on Aging, each Regional Long Term Care Ombudsman Program provides advocacy and direct services to long term care residents in multiple counties.

The community advisory committees were established through state legislation in the mid-70's. Boards of county commissioners were authorized to appoint local citizens to serve as advocates for residents in long term care facilities. Each community advisory committee member appointed must complete 15 hours of initial training prior to assuming official duties mandated by state statute (G.S. 131D-31 and G. S. 131E-128). The Regional Long Term Care Ombudsman Program ensures that each volunteer appointed completes the required training included in the State Long Term Care Ombudsman Program's Policies and Procedures to equip them to serve as 'grassroots advocates' in their communities. There are currently 1,168 trained volunteers actively serving on the Adult Care Home, Nursing Home or Joint Community Advisory Committees in all 100 counties of the state. Regional Ombudsmen submit quarterly reports that include the number of volunteer hours logged by committee members. Volunteers are not required to report the number of miles they travel fulfilling their duties; however, many do voluntarily provide this information as part of their Quarterly Activity Reports.

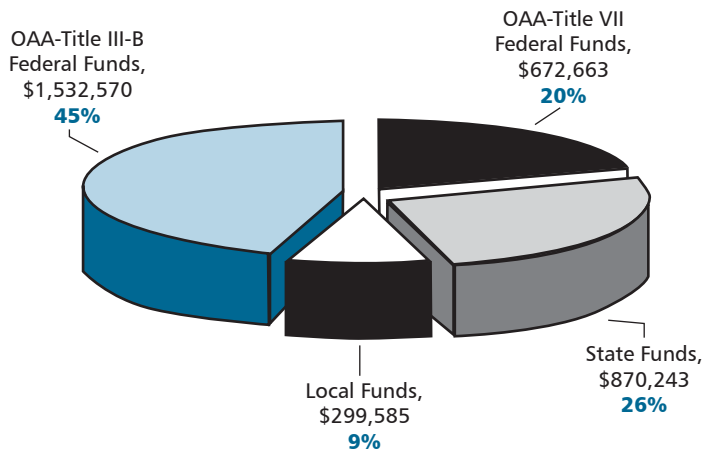


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### CAC Volunteer Hours and Miles for 2007 by Region



### North Carolina Long Term Care Ombudsman Program Expenditures by Funding Sources October 2006 - September 2007



The Division of Aging and Adult Services administers the federal and state funding that supports the Long Term Care Ombudsman Program in North Carolina. Approximately 85% of all funds shown in this chart are allocated to the Area Agencies on Aging for operation of the 17 Regional Ombudsmen Programs.

State fund expenditures include \$167,642 to support the state level Long Term Care Ombudsman Program and provide matching funds for Title III and VII programs, and \$702,601 in state funds that are allocated to Area Agencies on Aging for Regional Ombudsman Programs.

The administrator, Mary Connor plans to take her residents on a Spring trip to Gatlinburg, Tennessee or to the beach. Of course, a trip out of town for 5 residents and the administrator and possibly others will cost much more than \$150.00, but Mary will use this money to supplement other sources.

Congratulations are in order for Golden Moments! A description of their trip including pictures is planned for a later edition of the Land-of-Sky Regional Council Area Agency on Aging newsletter.

Note: Recently the Buncombe County Adult Care Home Advisory Committee received a special Thank You card from Mary Connor that included a picture of the residents during their trip to Gatlinburg, Tennessee, a note and a CD of photographs. The following message was written under the picture:

*"All of us at Golden Moments Family Care Home would like you to know we appreciate your help in making our trip possible. You helped make my residents very happy!"*

\*The article was printed in the May - July 2007 Land-of-Sky Regional Council Area Agency on Aging Newsletter.



# Long Term Care Ombudsman Program Services

## Technical Consultation to the General Public

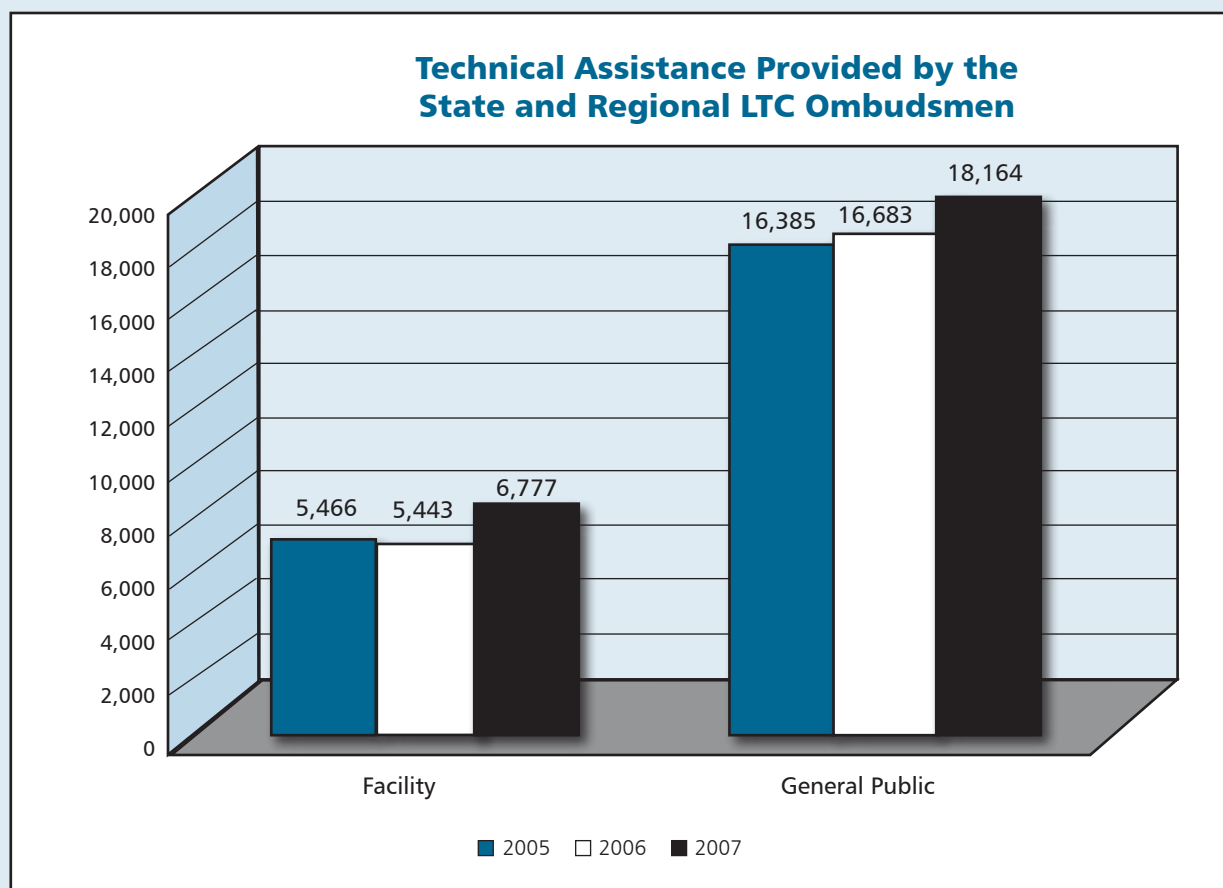
Ombudsmen provided technical assistance consultations to **18,164 individuals** during 2007. The information most frequently requested involved:

- Quality of care issues and Residents' Rights.
- Options for selection of a long term care facility.
- Protection of Residents' Rights during the Transfer/Discharge process.

## Technical Assistance to Nursing Homes and Adult Care Homes

The Program responded to **6,777 consultation requests** from long term care providers regarding resident care issues such as:

- Explanation of the role of the Long Term Care Ombudsman Program and the Community Advisory Committee members.
- Ensuring Residents' Rights are protected when addressing issues such as transfer/discharge from the facility, roommate conflicts, elopements, falls, smoking, visitation and privacy.
- How to effectively deal with challenging resident behaviors and family issues.



## Informal Complaint Resolution

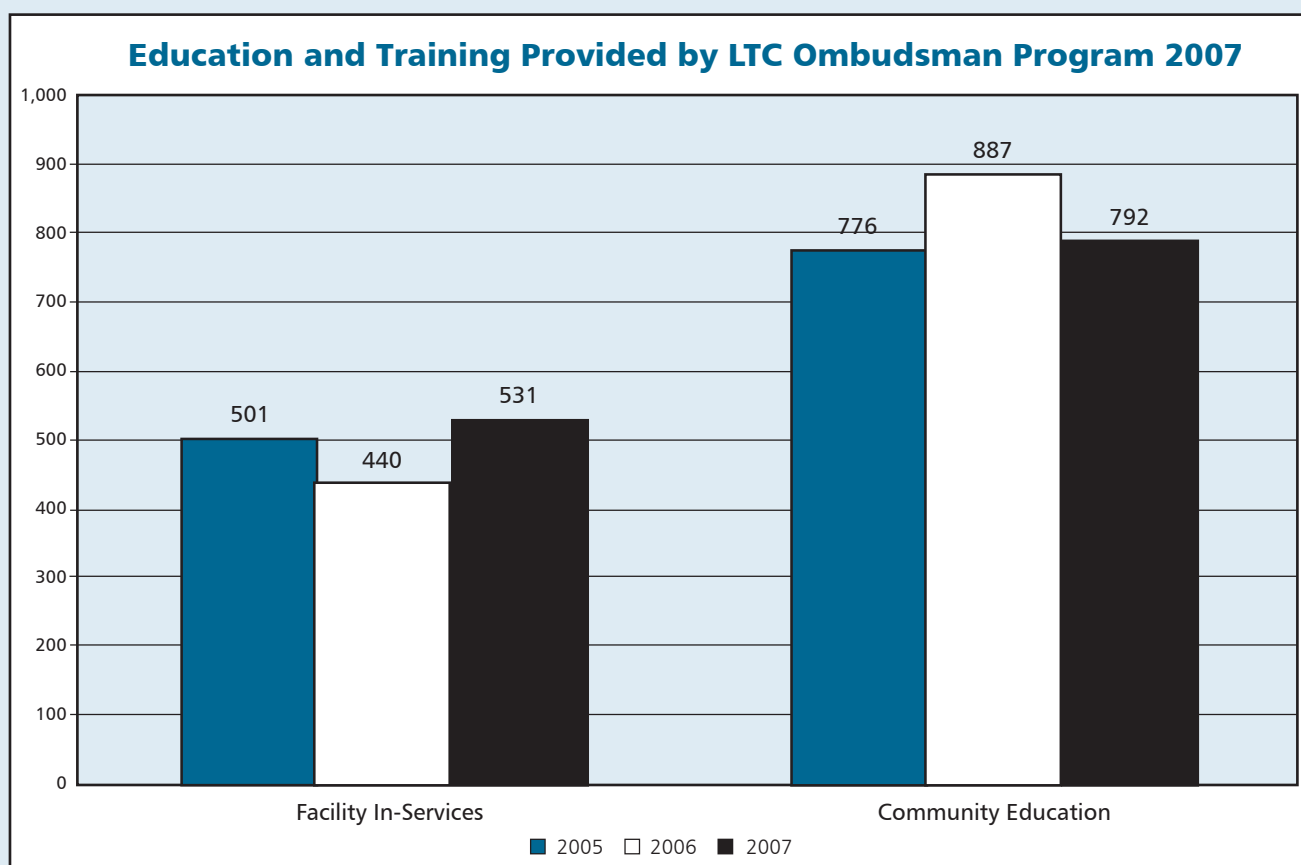
The Long Term Care Ombudsman Program receives, investigates, and attempts to resolve complaints made by or on behalf of residents in long term care facilities. Confidentiality is the foundation of the complaint resolution process. Long Term Care Ombudsmen do not disclose the identity of any person registering complaints with the program nor the details of a complaint in any way that could identify the complainant unless written informed consent has been given for disclosure.

The Long Term Care Ombudsman Program responded to **3,238 complaints** from **1,588 individuals** in FFY 2007. Fifty-six percent (56%) of those complaints were related to problems experienced in nursing homes and forty-four percent (44%) of complaints received involved problems in adult care homes.

## In-Service Education for Facility Staff

The Long Term Care Ombudsman Program provided **531 training sessions** for long term care staff during 2007. Regional Ombudsman Programs across the state conducted elder abuse and Residents' Rights educational sessions for direct care staff. Regional Ombudsmen also provided training on topics such as:

- Residents' Rights and the Role of the Long Term Care Ombudsman Program.
- Sensitivity to Sensory Losses Associated with Aging.
- Elder Abuse Identification and Prevention.



## Community Education

The Long Term Care Ombudsman Program provided **792 educational sessions** for a variety of community audiences during 2007. Workshop topics included:

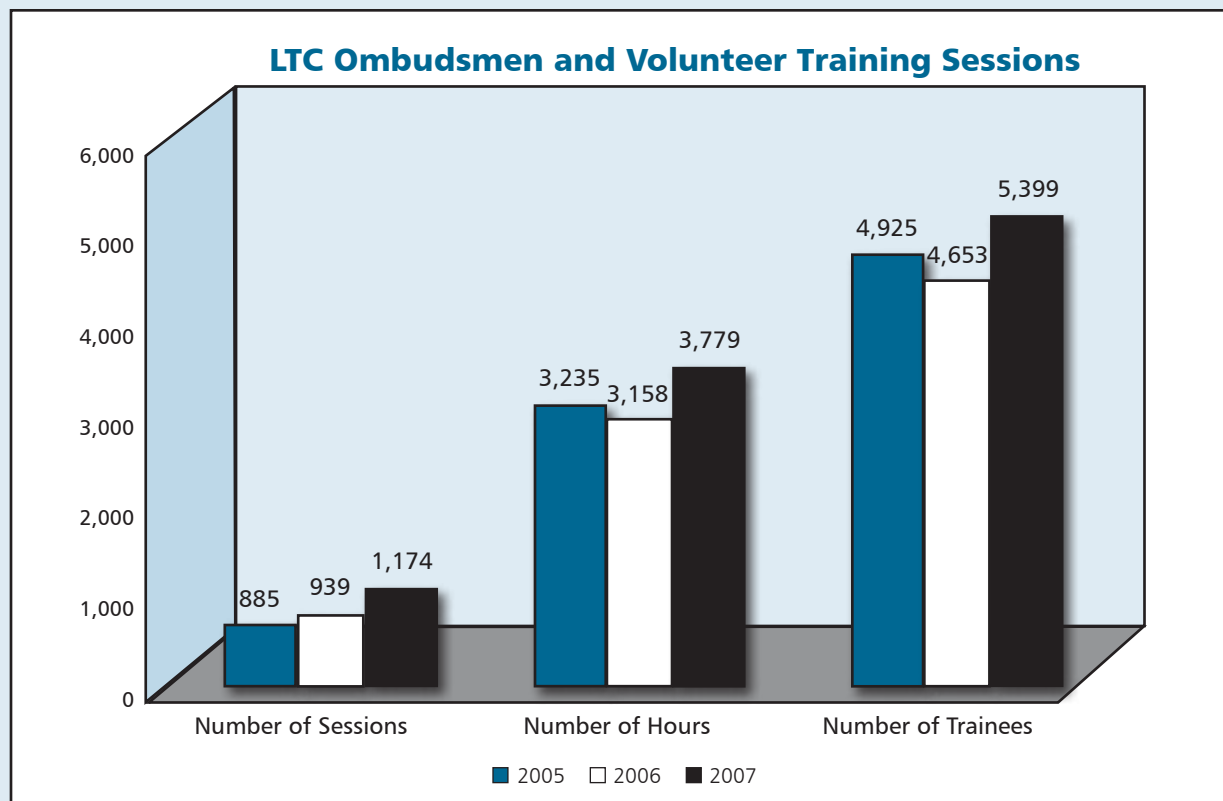
- Ombudsman Program Roles and Services
- Recognizing and Reporting Elder Abuse
- Understanding Residents' Rights in long term care facilities
- Older Adult Sensitivity training.

New data available through the Ombudsman Complaint Tracking System indicates that **454 of the 1,323 educational presentations** conducted for either facility staff or community groups through the Long Term Care Ombudsman Program were focused on topics related to **Elder Abuse Prevention and Awareness**. Presentations about Abuse, Neglect, Financial

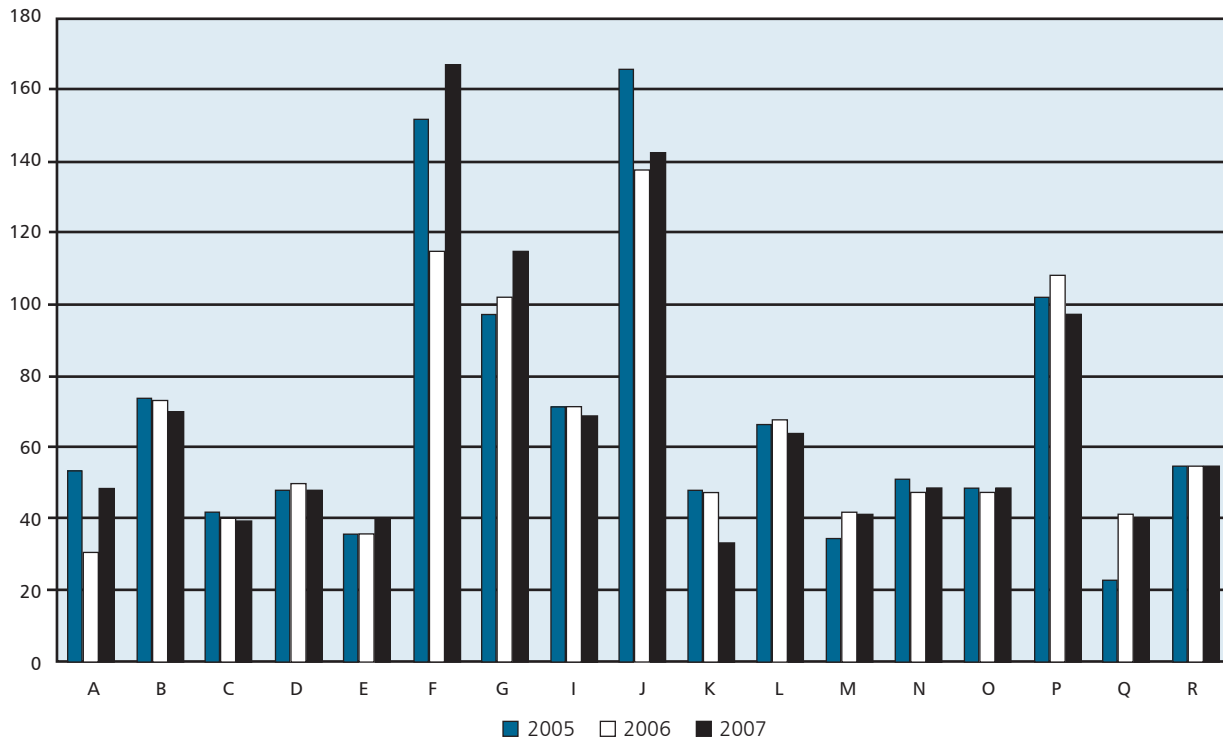
Fraud, Exploitation, and How to Recognize and Report Suspected Elder Abuse reached an estimated 8,538 unduplicated persons. In addition, Ombudsmen made 248 referrals to local Adult Protective Services units during 2007.

## Volunteer Management

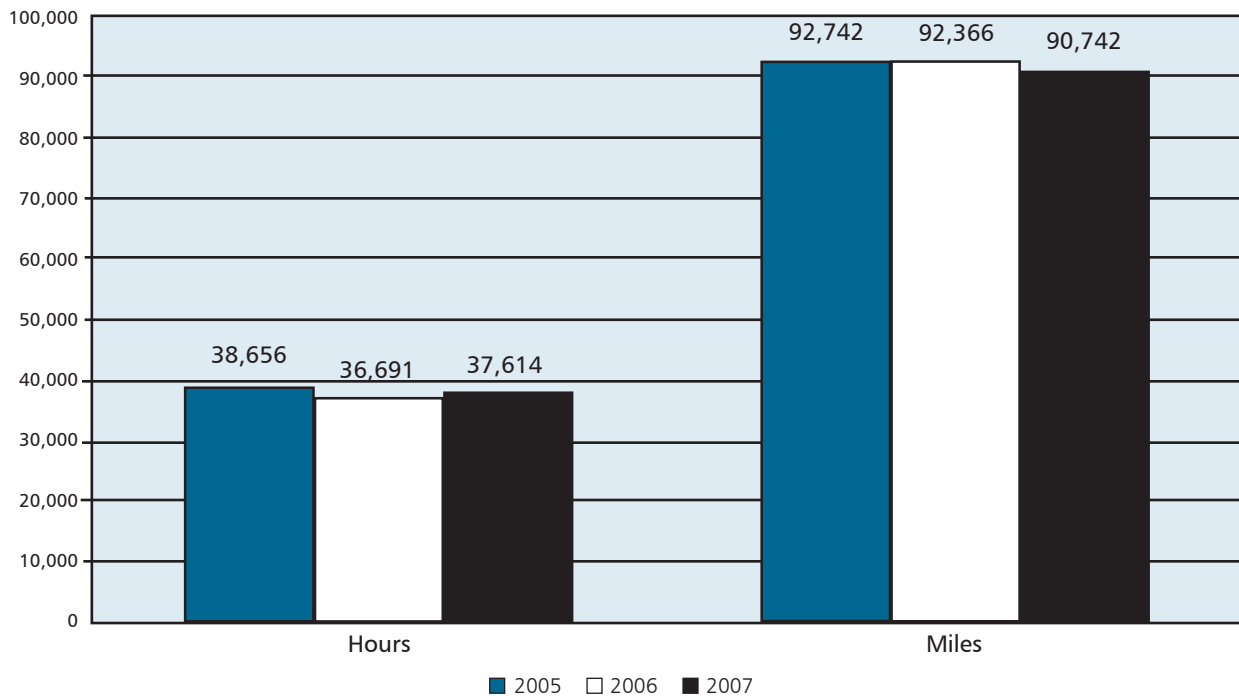
The Long Term Care Ombudsman Program provided **1,174 sessions** and **3,779 hours** of training for community advisory committee volunteers and new regional ombudsmen during 2007. Regional Ombudsmen spent approximately 26% of their time providing initial training for newly appointed community advisory committee members, coordinating ongoing committee training, and regularly providing technical assistance to the local advisory committees. Through these activities, the Ombudsman Program provided consistent support for 1,168 trained, active community advisory committee volunteers throughout 2007.



### Number of Community Advisory Committee Volunteers per Region



### Community Advisory Committee Volunteer Hours and Miles Contributed through the LTC Ombudsman Program



## Ombudsman Training and Certification

Ten (10) new Regional Long Term Care Ombudsmen completed the State Long Term Care Ombudsman Program's requirements for certification during 2007. The Ombudsman Program certification process includes five days of intense training by staff in the Office of State Long Term Care Ombudsman, internships in nursing homes, adult care homes and family care homes, plus completion of a required reading list. The State Office also works cooperatively with the Regional Long Term Care Ombudsman Association to match each newly certified regional ombudsman with a mentor from a pool of more experienced regional ombudsmen. The mentor is available one-on-one for at least one year. Regional Long Term Care Ombudsmen must attend 20 hours of quarterly in-service training each year. Some of the topics provided at quarterly training by state staff were Revocation of Powers of Attorney; Legal Services; State/County Special Assistance for Adults; Special Assistance for Residents in Special Care Units; the Medicaid Uniform Screening Tool, also known as MUST; Transfer/Discharge Hearing Procedures; and, End-of-Life Planning-N.C.'s New Advance Directive Law SL 2007-502. The quarterly training in May 2007 included 10 hours of mediation training for LTC Ombudsmen provided by the Mediation Center of Asheville.



March 2007 New Regional LTC Ombudsman Training in Raleigh



# Complaint Management Summary—2007

The North Carolina Long Term Care Ombudsman Program is mandated to receive and attempt to resolve complaints made on behalf of or by long term care residents using informal grievance resolution services. Ombudsmen initially respond to complaints by visiting with the resident in order to confirm that the resident wants the regional ombudsman's assistance in addressing the complaints with facility management and sometimes other agencies. When the Program receives complaints that concern a resident with cognitive impairments, an ombudsman will schedule a meeting with both the resident's legal representative and the resident so that within his or her capacity to do so, the resident can participate in all discussion and help establish their preferred outcomes. After Complaint Case Records are closed, ombudsmen enter all data into a statewide Ombudsman Complaint Tracking System. By federal and state mandates, the complaint tracking system is a confidential data base accessible only by certified long term care ombudsmen. Complaint and programmatic data are submitted quarterly from all regional programs to the Office of State Long Term Care Ombudsman for compilation into an annual report that is submitted to the U. S. Administration on Aging. The Administration on Aging collects information from all states through the national Ombudsman Reporting Tool (ORT) and publishes the data on its web site: [www.aoa.gov](http://www.aoa.gov).

During 2007, the North Carolina Long Term Care Ombudsman Program responded to 1,588 individuals who filed 3,238 complaints that involved residents living in long term care facilities. Compared to last year's complaint data, there has been a 10% increase in the number of complainants who contacted the Long Term Care Ombudsman

Program and a 6% increase in the number of complaints handled by the Program this year. A brief review of complaint trends shows the following:

- 1,827 nursing home and 1,411 adult care home complaints were handled by representatives of the N. C. Long Term Care Ombudsman Program.
- There was a 15% increase in complaints about care in adult care homes.
- The number of nursing home complaints remained about the same as last year.
- Overall the percentage of complaints resolved decreased slightly to 76% in 2007. One possible reason for the decrease may be that North Carolina incorporated new federal definitions and disposition categories into the State Ombudsman Complaint Tracking System that provide additional coding options. Examples of those category changes can be reviewed in the chart on page 28.
- 2,186 or 68% of total complaints were resolved by the ombudsmen to the satisfaction of the resident or complainant.
- 244 complaints (8%) were partially resolved.
- 393 complaints (12%) investigated by Program representatives resulted in a determination that there was no further action to be taken by the Long Term Care Ombudsman Program.
- 220 complaints (7%) were withdrawn by the resident or complainant prior to completion of an investigation by the Ombudsman Program.
- 46 complaints (1%) of all complaints investigated could not be resolved to the satisfaction of the resident or complainant.
- 45 complaints (1%) could not be addressed until changes are made in current

regulations or until there is legislative action to amend current laws.

- 104 complaints (3%) were referred to other agencies and either a final disposition was not obtained or the agencies did not substantiate the complaints.
- The largest group of complainants (55%) filing complaints on behalf of nursing home residents continues to be relatives, friends or legal representatives (493), although there was a 4% decrease from last year. At the same time, there was a 12% increase in the number of nursing home residents (270) who filed complaints with the program.
- Adult care home residents who contacted ombudsmen directly for assistance remained the largest complainant category (56%). The number of residents (384) filing complaints with the Program increased by 30% in 2007.

Charts incorporated in this year's annual report provide comparisons of complaint trends in several ways:

- 1) Ten most recent years
- 2) The three most recent years
- 3) Complaints by facility type
- 4) By frequency of a complaint
- 5) By complainant type
- 6) Final disposition of complaints
- 7) Most frequently addressed complaints by facility type

Several graphs have been included that illustrate changes in the number of complaints investigated in connection with facility discharges and allegations of some form of abuse. Tables located on pages 10 and 11 reflect this year's trends in technical assistance, community education and facility staff training. Technical assistance and consultation provided for residents, families

and the public increased by 9% and consultations with facility staff increased by 25%. The number of facility staff in-service education sessions increased by 21% this year; however, there was an 11% decrease in the number of community education events conducted by ombudsmen which would support last year's analysis that the massive need to educate beneficiaries, relatives and providers about the newly established Medicare Part D prescription drug program accounted for the significant increase in 2006.

Major complaint categories are included in the revised National Ombudsman Reporting Tool under the broad headings of:

- Residents' Rights
- Resident Care
- Quality of Life
- Administration
- Not Against Facility

Each category included above contains several sub-categories that tabulate the number of complaints addressed that would have an impact on a specific area of resident care or quality of life. The following chart compares the total number of complaints in the selected sub-categories for 2006 and 2007. The increases in complaints are of concern due to the potential negative impact on residents' autonomy and quality of life. There was a 43% increase in the total number of complaints listed in the following sub-categories for FFY 2007.

<b>Individual Complaint Category</b>	<b>2006</b>	<b>2007</b>
Dignity, Respect and Staff Attitudes	186	201
Confinement in facility against their will	32	39
Privacy for telephone, visitors, mail, couples	28	44
Personal Hygiene, adequacy of dressing/grooming	105	154
Response to calls for assistance; call bells	67	101
Menu/food service: quality, quantity, choice,	85	158
Personal Property lost, stolen, used by others	46	54
Cleanliness, pests, general housekeeping	63	97
Symptoms unattended, pain or no notice of changes	63	84
Resident and Family councils interfered with	0	4
Shortage of staff	53	103
<b>Totals</b>	<b>728</b>	<b>1039</b>

In September 2006, the State Long Term Care Ombudsman was appointed by the United States Bankruptcy Court, Eastern District of North Carolina to serve as the Patient Care Ombudsman for five adult care homes placed in Chapter 11 Bankruptcy by the parent company. The Patient Care Ombudsman language was enacted as part of the 2005 federal Bankruptcy Reform Act which created a new role for State Long Term Care Ombudsmen. Since last year, the U. S. Bankruptcy Court converted the parent company for the five adult care homes in a Chapter 7 Bankruptcy case, which ended oversight by the State Long Term Care Ombudsman. However, owners of another adult care home petitioned for Chapter 11 Bankruptcy, so one facility has been monitored by the State Ombudsman this past year through coordination with the Regional Ombudsman for that area. Official Patient Care Ombudsman Reports continue to be filed with the United States Bankruptcy Court in sixty-day (60) cycles and posted in each of the facilities. This reporting cycle will continue until the cases are closed.

Ombudsmen have continued to receive an array of complaints from residents with legal guardians. These cases were complex and required skillful advocacy based on North Carolina's guardianship laws. A main tenet of the guardianship statutes provides that the resident [ward] should be permitted to the extent of his/her capabilities to participate as fully as possible in all decisions that will affect him/her. Individuals appointed to serve as guardians for relatives need to be well informed about the intent of guardianship to preserve and protect the rights of an incompetent adult. Ombudsmen frequently helped residents address their rights to receive visitors of their choice, to have access to a telephone, and to discuss their concerns with their appointed guardians.

Long term care facility smoking policies and resident smoking issues continued as a significant trend in terms of resident complaints to ombudsmen. Regional Ombudsmen addressed residents' concerns about prohibitive smoking policies by seeking clarification from the Division of Health Service Regulation, Licensure and Certification Section and by consistent advocacy with management staff in facilities. A major issue addressed this year has been residents' objections to a facility's smoking policies because there was no differentiation between unsafe smokers and safe smokers established

through an individual assessment process. Some facility policies required all residents who smoke to follow a rigid schedule of smoking breaks, and then only under direct supervision of a staff person. Residents complained that they were being treated like children and were unable to exercise their rights to choose or enjoy their preferences in terms of activities and leisure time. Long Term Care Ombudsmen sought resolutions that would achieve a respectful balance between resident safety and individual residents' choices about matters that are important to them, such as choosing to smoke.

Historically, the Long Term Care Ombudsman Program's primary focus has been shaped by the Older Americans Act mandates to provide direct advocacy services to persons aged 60 or older residing in long term care facilities. Prior to 2004, the majority of complaints and complainants who contacted the Program (66%) related to concerns about nursing facility residents.

However, Program data indicates that in 2004 and subsequent years, complaints from or on behalf of adult care home residents have steadily increased as have the number of complainants. At the same time, complaints from or on behalf of nursing home residents have decreased. The number of individuals who filed complaints about problems in nursing homes has changed only slightly during each of past three years.

<b>Year</b>	Total Complaints	NH Complaints	% ↓	ACH Complaints	% ↑	NH Complainants	% ↓	ACH Complainants	% ↑
<b>2004</b>	3,460	2,203	64	1,257	36	787	64	441	36
<b>2005</b>	2,972	1,868	63	1,104	37	856	64	457	34
<b>2006</b>	3,044	1,821	60	1,223	40	891	62	551	38
<b>2007</b>	3,238	1,827	56	1,411	44	897	57	691	44

Minor decreases in the complaint data were anticipated as the result of incorporating more specific complaint coding definitions and code categories effective mid 2006 as part of an Administration on Aging initiative to improve consistency in reporting complaint data collected across all states. There is a trend reflected in the data that merits close observation in order to ensure that the approximately 49,000 nursing home residents have adequate access to direct assistance and advocacy services available through the Long Term Care Ombudsman Program. Many nursing home residents experience challenging barriers related to medical, physical and sensory limitations that hinder them from actively seeking out a representative of the Long Term Care Ombudsman Program to help them with Residents' Rights issues. The Program must ensure that long term care ombudsmen maintain their presence and availability for nursing home residents through regular visits and outreach efforts.

The Long Term Care Ombudsman Program provides direct services for older and disabled adults residing in long term care facilities that are unique to each resident. Program services are tailored to the individual resident's concerns and interventions such as informal grievance resolution are planned with the resident in order to achieve their desired outcomes. Requests for advocacy, grievance resolution and access services from the Long Term Care Ombudsman Program are projected to continue increasing as Baby Boomers begin seeking and utilizing resources available within the aging network.

# North Carolina Nursing Homes



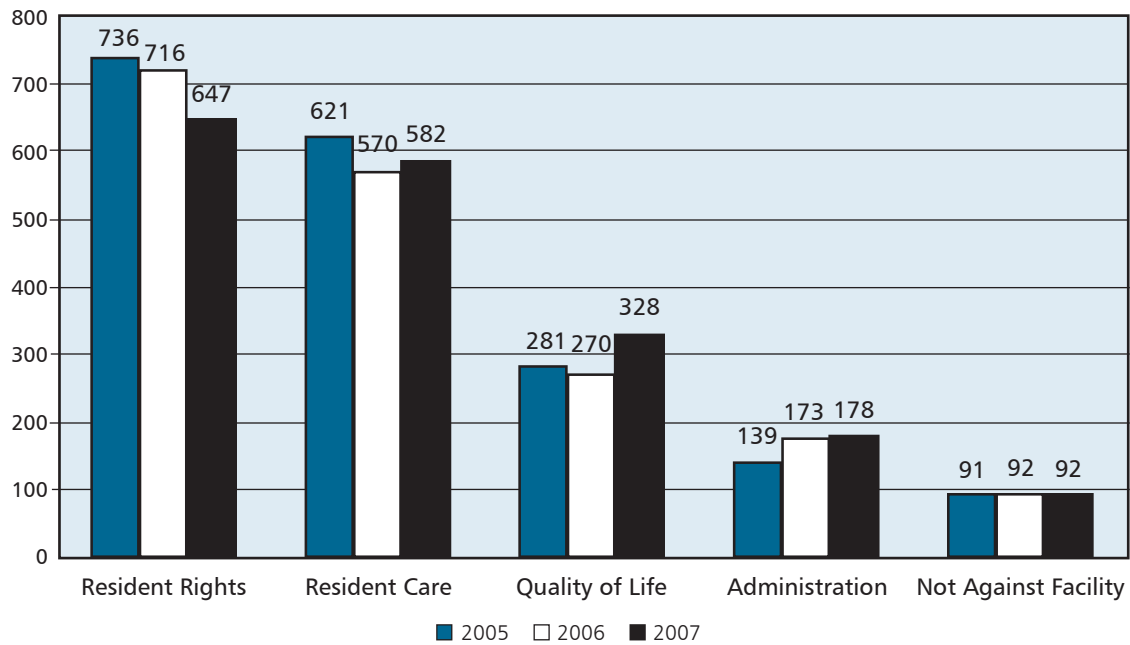
2007

Type of Facility	Number of Licensed Facilities	Number of Licensed Beds
Nursing Homes	446	49,233

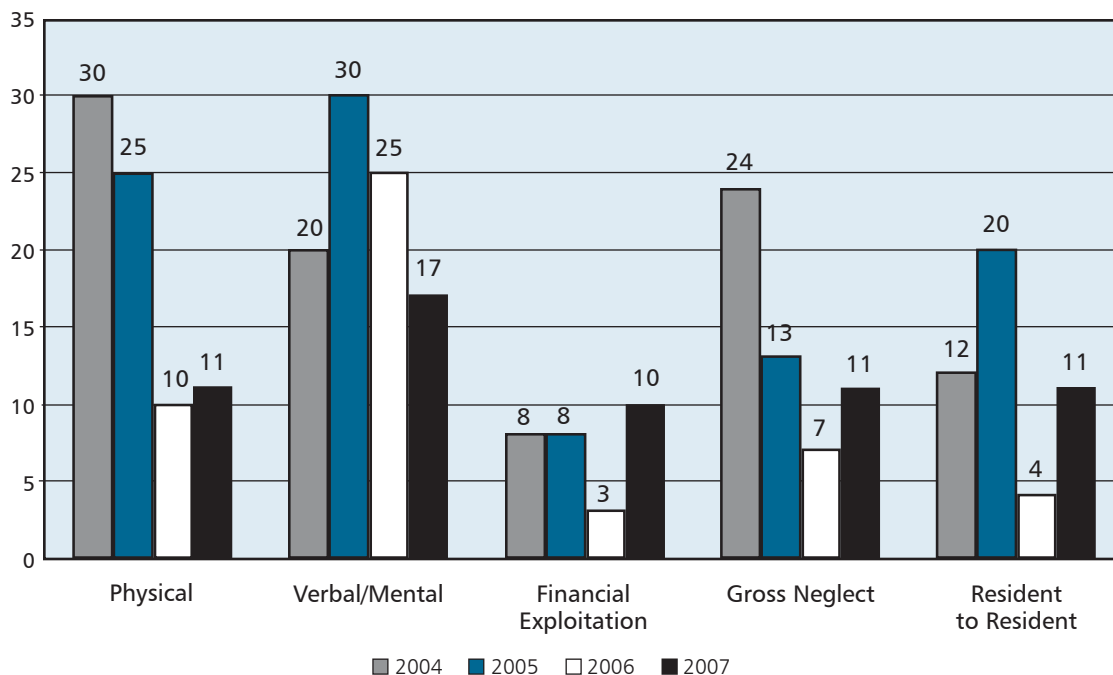




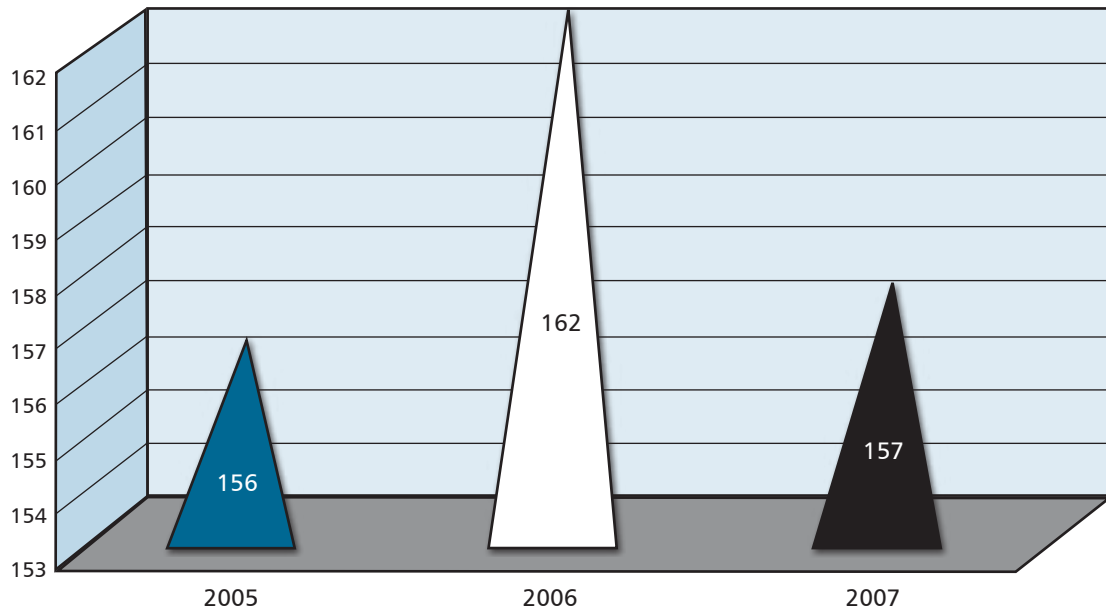
### Three-Year Comparison of Nursing Home Complaints FFY 2005 - FFY 2007



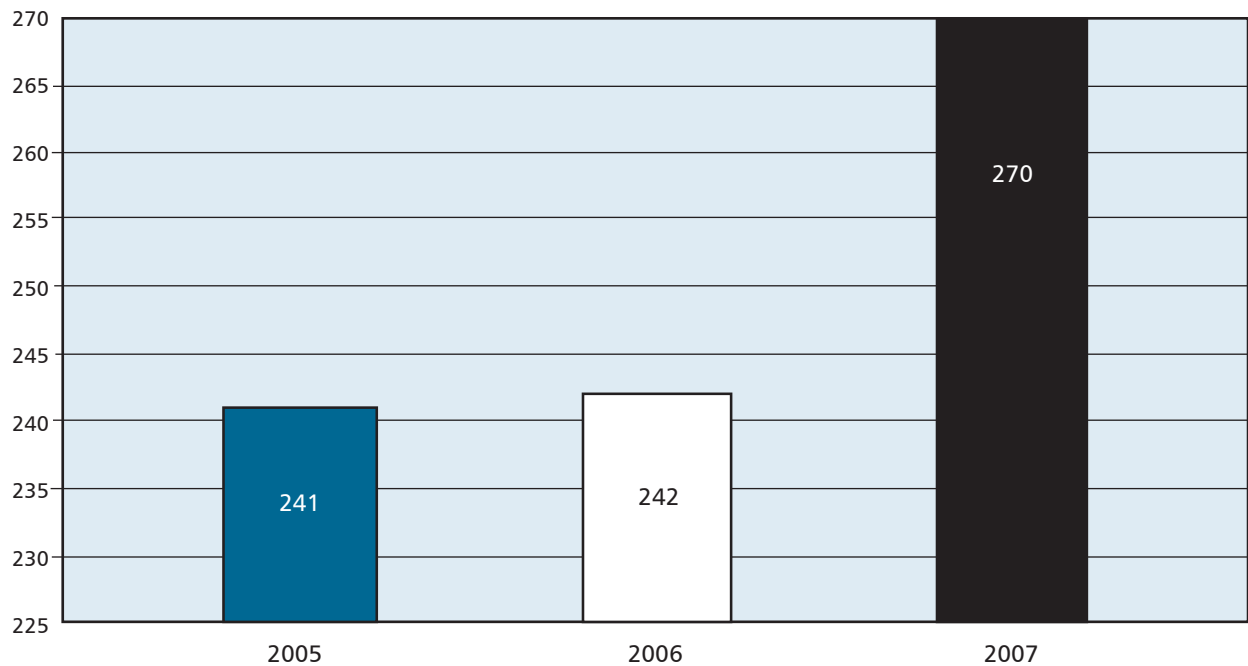
### Four-Year Comparison of Abuse Complaints in Nursing Homes FFY 2004 - FFY 2007



### Complaints about Nursing Home Discharge Plans/Procedures FFY 2005 - FFY 2007



### Number of Nursing Home Residents who filed Complaints FFY 2005 - FFY 2007



## ***Mediation Enhances Understanding and Communication***

Sara Jane Melton,  
Regional Ombudsman

The daughter of a skilled nursing facility resident contacted the regional ombudsman who visits the facility and expressed concerns about her visitation rights with her mother. The nursing facility staff was preventing the daughter from taking her mother on outings due to their concerns about the mother's access to her wheelchair while she was outside the facility. The resident had grown extremely fearful of walking without the wheelchair nearby after incurring injuries while walking independently. The facility encouraged the resident to use the wheelchair and to walk as often as desired while pushing it. However, the daughter, who thought she was following doctor's orders, was discouraging her mother from using the wheelchair.

Both the facility and the daughter were adamant about their opinions and approaches to the resident's treatment. The conflict grew more intense within a short amount of time. Adult Protective Services was asked to intervene at one point.

During a much needed care plan meeting which the regional ombudsman facilitated, the doctor's orders were reviewed, the daughter's point of view as well as the administrator's were expressed, and the solution became clearer. By bringing the defensive parties together with a mediator/ombudsman, the facts surfaced and a new plan of care was developed.

The facility made arrangements for a new physical therapy assessment and consulted with the resident's doctor regarding appropriateness of the wheelchair usage. The daughter admitted feeling a degree of denial in dealing with her mother's physical condition. While discussing the issues around the table, a new understanding developed between the facility and the family member that encouraged mutual support and confidence in each other's ability to provide quality of life and care for the mother when she was both inside and out of the facility.



# North Carolina Adult Care Homes

2007

Type of Facility	Number of Licensed Facilities	Number of Licensed Beds
Adult Care Homes	1,290	40,142



## ***Resident Benefits from Advocate's Persistence***

A regional ombudsman received a call from an area geriatrician who was very concerned about an adult care home resident she had recently treated in the hospital. The geriatrician had serious misgivings as to whether the resident's guardian was acting in her best interest. The physician was deeply concerned that, upon discharge from the hospital, the resident had been placed in a locked Alzheimer's Unit rather than being allowed to return home with supportive in-home services. It was the geriatrician's professional opinion that this was an exceptionally restrictive and inappropriate placement.

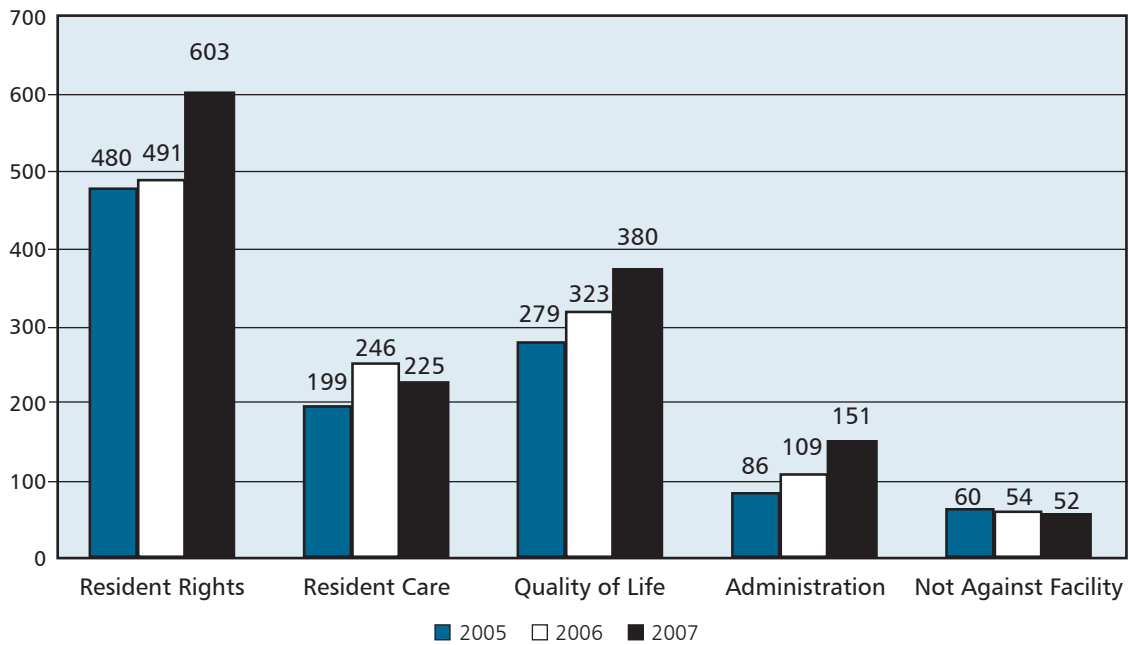
When the regional ombudsman visited the resident in the locked unit, she determined that the geriatrician's description of the resident's situation was accurate. The resident was coherent, oriented to date, time, and place, and understandably angry about her situation. In addition to the restrictions of the unit, she had 24/7 private caregivers assigned to her room, no telephone, and only minimal articles of personal clothing. Even though the resident was wealthy, she complained that she did not have enough change for a soda. During subsequent visits with the regional ombudsman, the resident consistently demonstrated capacity to think, articulate, and make her wishes known. She was worried about the management of her assets, deflated by her current circumstances, and outraged that she had been unable to speak with her guardian, despite many attempts. The resident desperately wanted to return to her own home, and was amenable to receiving in-home services for assistance with activities of daily living.

In the course of the regional ombudsman's investigation, a serious conflict of interest involving the guardianship became apparent. With the resident's authorization plus advice and support from the State LTC Ombudsman's office, the regional ombudsman was able to work with one of the resident's relatives to advocate for a change in guardianship. After months of persistence, the family member was appointed Guardian of the Person. As a result, the resident was able to move back into her own home with the support of in-home services and has been able to maintain her independence in the community.

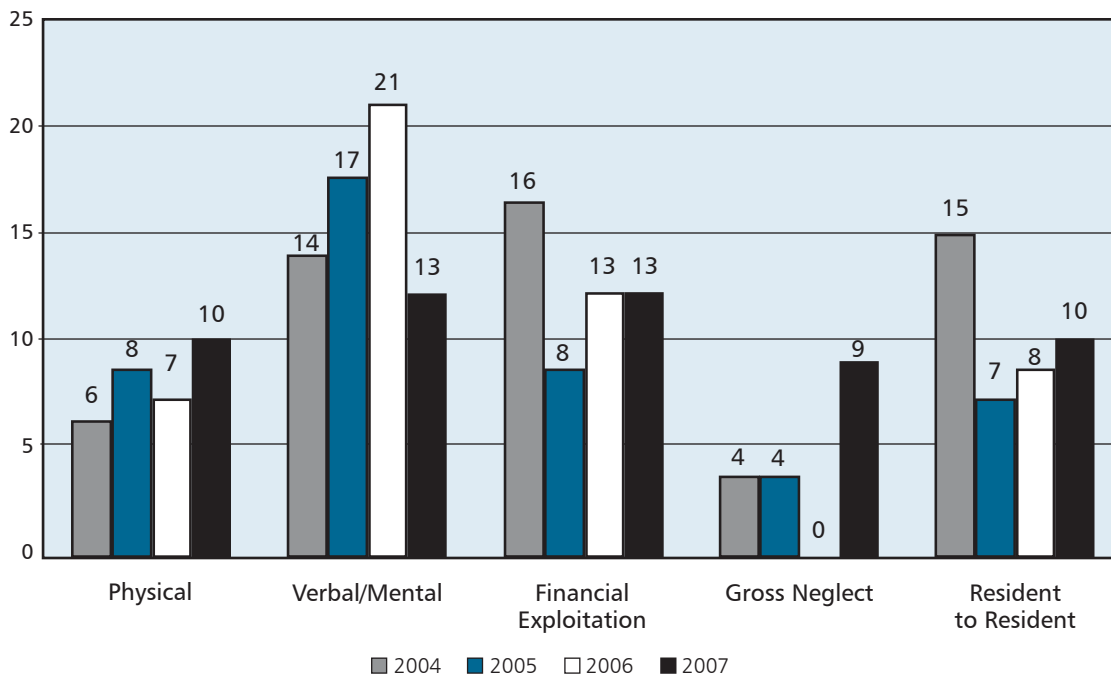




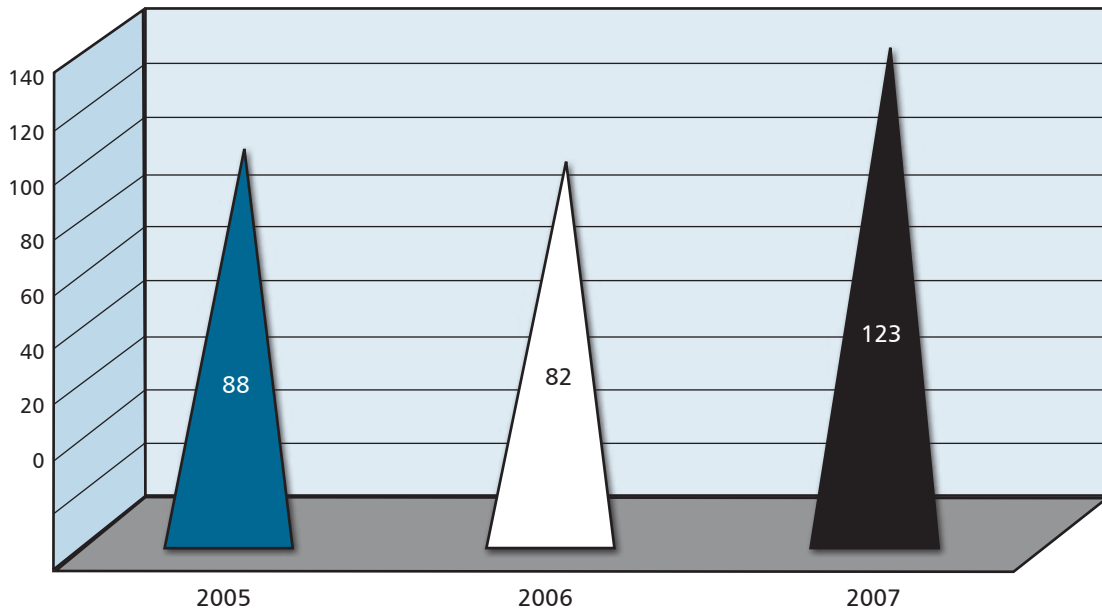
### Three-Year Comparison of Adult Care Home Complaints FFY 2005 - FFY 2007



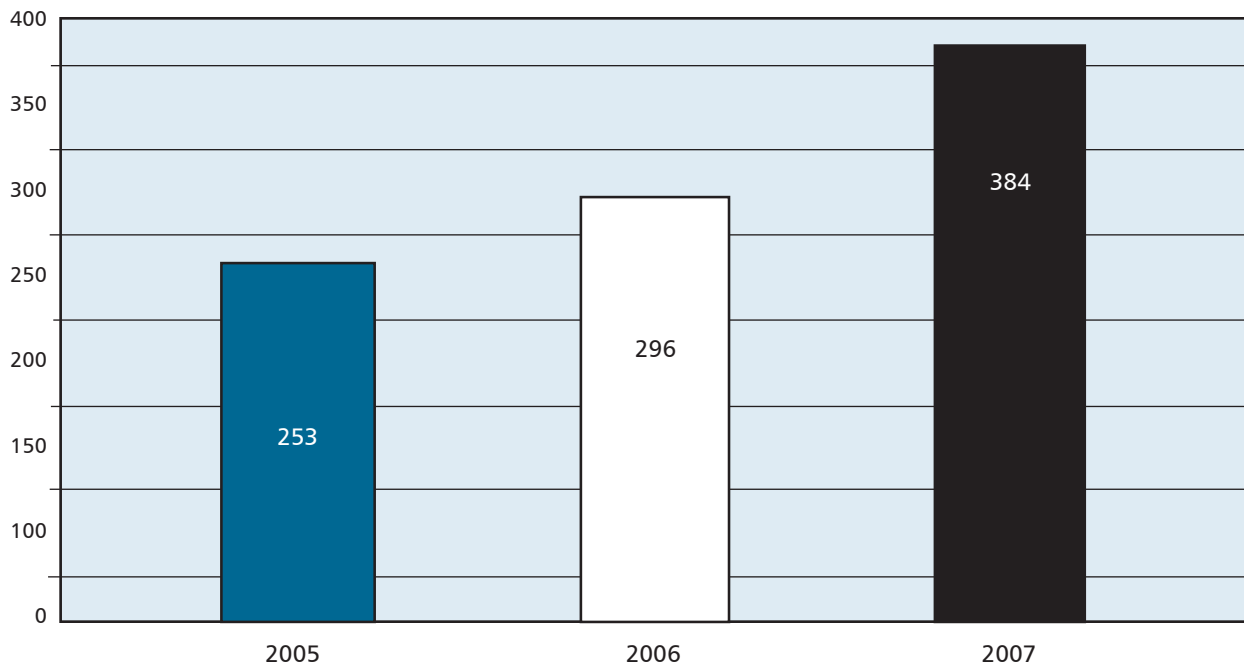
### Four-Year Comparison of Abuse Complaints in Adult Care Homes FFY 2004 - FFY 2007



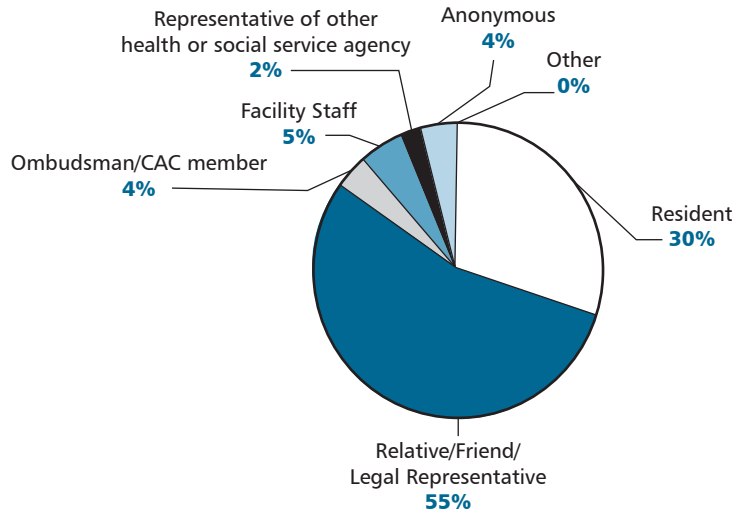
**Complaints about Adult Care Homes Discharge Plans/Procedures**  
FFY 2005 - FFY 2007



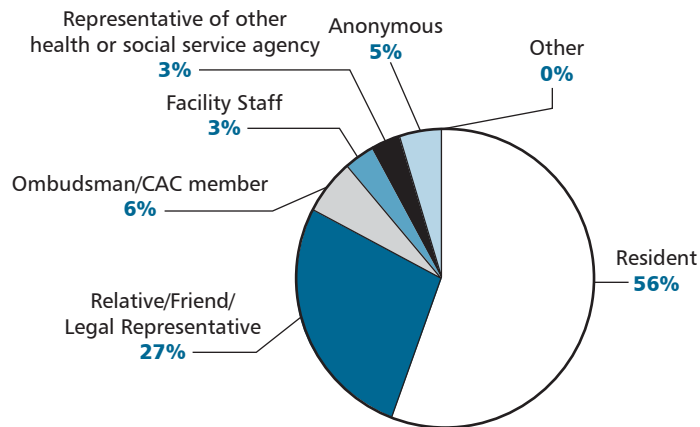
**Number of Adult Care Home Residents who filed Complaints**  
FFY 2005 - FFY 2007



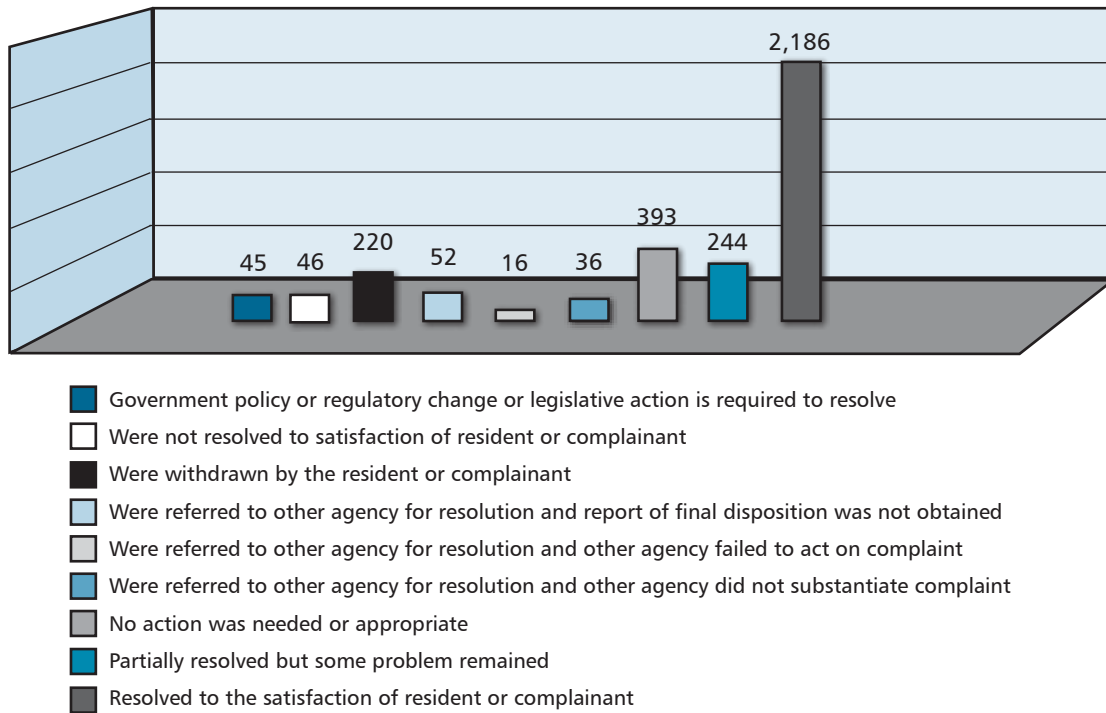
### Nursing Home Complainants 2007



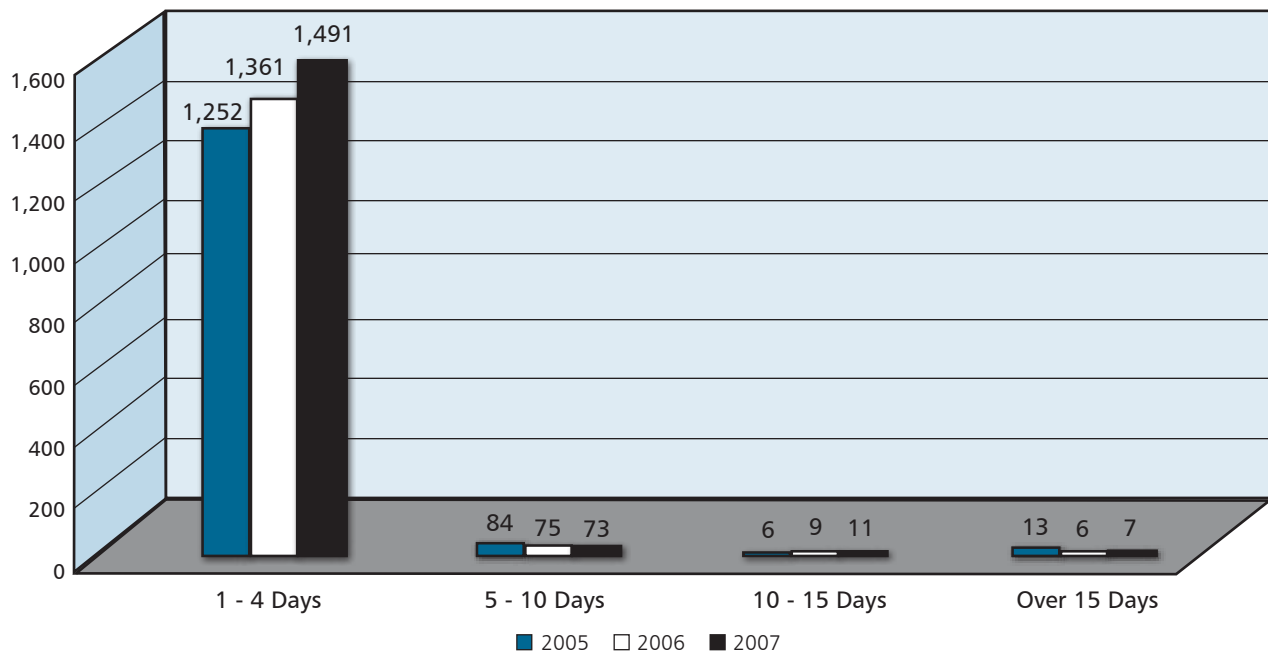
### Adult Care Home Complainants 2007



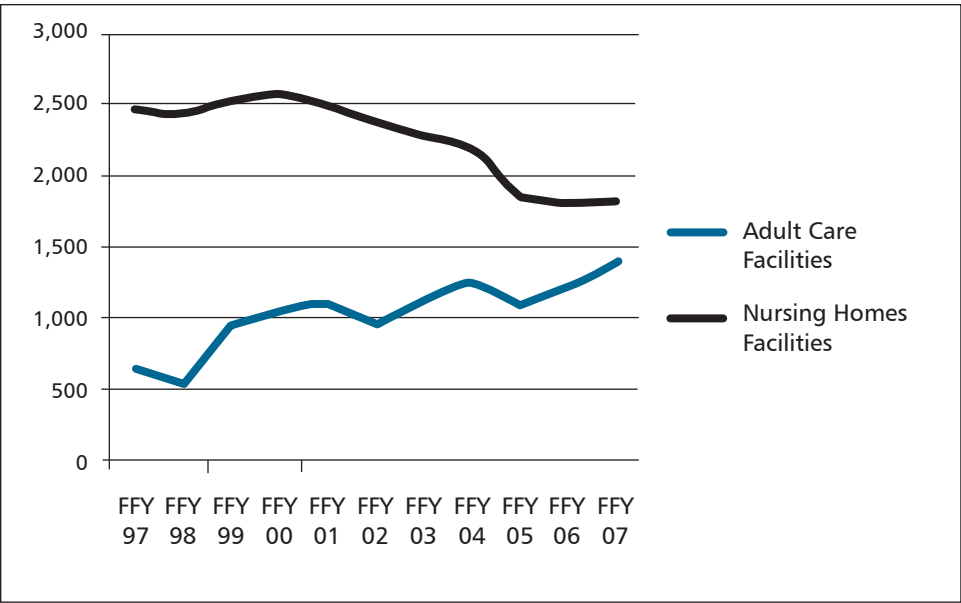
## Disposition of Adult Care and Nursing Home 2007 Complaints



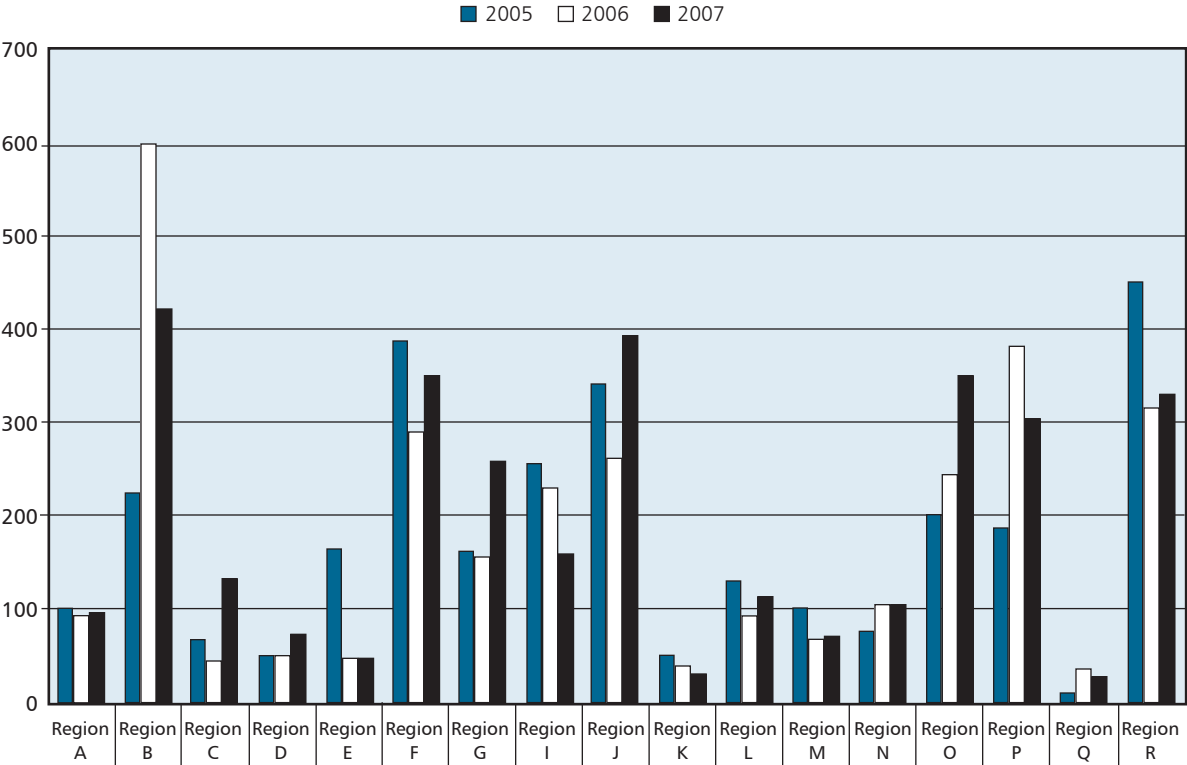
## Response Time to Complaints FFY 2005 - FFY 2007



### Ombudsman Program Complaint Trends by Facility Type FFY 1997 - FFY 2007



### Complaint Trends by Region





## 2007 North Carolina Ombudsman Complaint Tracking System Data

### 5 Most Frequent Complaints in Nursing Homes

Complaint Category	Number of Complaints	Percentage of Total Complaints: 1827
Discharge/eviction-planning, notice, procedures, implementation	157	8.6%
Dignity, respect, staff attitudes	123	6.7%
Personal hygiene-nail care and oral hygiene and adequacy of dressing and grooming	114	6.2%
Failure to respond to requests for assistance	89	4.8%
Shortage of staff	73	4.0%

### 5 Most Frequent Complaints in Adult Care Homes

Complaint Category	Number of Complaints	Percentage of Total Complaints: 1411
Discharge/eviction-planning, notice, procedures, implementation	123	8.7%
Food service- quantity, quality, variation, choice, condiments, utensils, menu	104	7.3%
Dignity, respect, staff attitudes	78	5.5%
Medications – administration, organization	74	5.2%
Billing/charges – notice, approval, questionable, accounting wrong or denied	70	4.9%

\* To review all 128 complaint categories see Appendix B.

# Appendices



## Appendix A

### North Carolina Adult Care Home Bill of Rights

(Condensed Version)

#### **Every resident shall have the following rights:**

1. To be treated with respect, consideration, dignity and full recognition of his or her individuality and right to privacy.
2. To receive care and services which are adequate, appropriate and in compliance with relevant federal and state laws and rules and regulations.
3. To receive upon admission and during his or her stay a written statement of the services provided by the facility and the charges for these services.
4. To be free of mental and physical abuse, neglect and exploitation.
5. Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.
6. To have his or her personal and medical record kept confidential and not disclosed without the written consent of the individual or guardian, which consent shall specify to whom disclosure may be made except as required by applicable state or federal statute or regulation or by third party contract.
7. To receive a reasonable response to his or her requests from the facility administrator and staff.
8. To associate and communicate privately and without restriction with people and groups of his or her own choice on his or her own initiative at any reasonable hour.
9. To have access at any reasonable hour to a telephone where he or she may speak privately.
10. To send and receive mail promptly and unopened, unless the resident requests that someone open and read mail, and to have access at his or her expense to writing instruments, stationery and postage.
11. To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions without fear of coercion or retaliation.
12. To have and use his or her own possessions where reasonable and have an accessible lockable space provided for security of personal valuables. This space shall be accessible only to the residents and the administrator or supervisor in charge.
13. To manage his or her personal needs funds unless such authority has been delegated to another. If authority to manage personal needs funds has been delegated to the facility, the resident has the right to examine the account at any time.
14. To be notified when the facility is issued a provisional license by the North Carolina Department of Health and Human Services and the basis on which the provisional license was issued. The resident's responsible family member or guardian shall also be notified.
15. To have freedom to participate by choice in accessible community activities and in social, political, medical and religious resources and to have freedom to refuse such participation.
16. To receive upon admission to the facility a copy of this section.
17. To not be transferred or discharged from a facility except for medical reasons, their own or other residents' welfare, or nonpayment. Except in cases of immediate jeopardy to health or safety, residents shall be given at least 30 days advance notice of the transfer or discharge and their right to appeal.

The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.

Your Regional Ombudsman is:

Telephone:

# North Carolina Bill of Rights for Nursing Home Residents

(Condensed Version)

## **Every resident shall have the following rights:**

1. To be treated with consideration, respect and full recognition of personal dignity and individuality.
2. To receive care, treatment, and services that are adequate and appropriate, and in compliance with relevant federal and State rules.
3. To receive at the time of admission and during stay, a written statement of services provided by the facility and of related charges. Charges for services not covered under Medicare and Medicaid shall be specified.
4. To have on file physician's orders with proposed schedule of medical treatment. Written, signed evidence of prior informed consent to participation in experimental research shall be in patient's file.
5. To receive respect and privacy in his medical care program. All personal and medical records are confidential.
6. To be free of mental and physical abuse. To be free of chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical records.
7. To receive from the administrator or staff of the facility a reasonable response to all requests.
8. To receive visitors or have access to privacy in phone use at any reasonable hour. To send and receive mail promptly and unopened, with access to writing materials.
9. To manage his/her own financial affairs unless other legal arrangements have been so ordered.
10. To have privacy in visits by the patient's spouse.
11. To enjoy privacy in his/her own room.
12. To present grievances and recommend changes

in policies and services without fear of reprisal, restraint, interference, coercion or discrimination.

13. To not be required to perform services for the facility without resident's consent and written approval of the attending physician.
14. To retain, to secure storage for, and to use his personal clothing and possessions, where reasonable.
15. To not be transferred or discharged from a facility except for medical, financial, or their own or other patient's welfare. Any such transfer shall require at least five days' notice, unless the attending physician orders immediate transfer, which shall be documented in the patient's medical record.
16. To be notified when the facility's license is revoked or made provisional. The responsible party or guardian must be notified, also.

The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.

Your Regional Ombudsman is:

\_\_\_\_\_  
Telephone: \_\_\_\_\_

## Appendix B

### Data Tables from N.C. Ombudsman Reporting Tool

NC State Annual Ombudsman Report for Federal FY2007 - Part I.D

Agency or organization which sponsors the State Ombudsman Program: N.C. Division of Aging and Adult Services

#### Part I - Cases, Complainants and Complaints

##### D. Types of Complaints, by Type of Facility

Below and on the following pages provide the total number of complaints for each specific complaint category, for nursing facilities and board and care or similar type of adult care facility. The first four major headings are for complaints involving action or inaction by staff or management of the facility. The last major heading is for complaints against others outside the facility. See Instructions for additional clarification and definitions of types of facilities and selected complaint categories.

Residents' Rights	Nursing Facility	B&C, ALF, RCF, etc.
<b>A. Abuse, Gross Neglect, Exploitation</b>		
1. Abuse, physical (including corporal punishment)	11	10
2. Abuse, sexual	0	2
3. Abuse, verbal/psychological (including punishment, seclusion)	17	13
4. Financial exploitation (use categories in section E for less severe financial complaints)	10	13
5. Gross neglect (use categories under Care, Sections F & G for non-willful forms of neglect)	11	9
6. Resident-to-resident physical or sexual abuse	11	10
7. Not Used		
<b>B. Access to Information by Resident or Resident's Representative</b>		
8. Access to own records	7	13
9. Access by or to ombudsman/visitors	16	8
10. Access to facility survey/staffing reports/license	0	1
11. Information regarding advance directive	2	1
12. Information regarding medical condition, treatment and any changes	29	9
13. Information regarding rights, benefits, services, the resident's right to complain	2	2
14. Information communicated in understandable language	5	6
15. Not Used		
<b>C. Admission, Transfer, Discharge, Eviction</b>		
16. Admission contract and/or procedure	9	3
17. Appeal process - absent, not followed	4	4
18. Bed hold - written notice, refusal to readmit	4	1
19. Discharge/eviction - planning, notice, procedure, implementation, inc. abandonment	157	123
20. Discrimination in admission due to condition, disability	5	5
21. Discrimination in admission due to Medicaid status	0	0
22. Room assignment/room change/intrafacility transfer	21	9
23. Not Used		
<b>D. Autonomy, Choice, Preference, Exercise of Rights, Privacy</b>		
24. Choose personal physician, pharmacy/hospice/other health care provider	5	8
25. Confinement in facility against will (illegality)	16	23
26. Dignity, respect - staff attitudes	123	78
27. Exercise preference/choice and/or civil/religious rights, individual's right to smoke	23	31
28. Exercise right to refuse care/treatment	4	5
29. Language barrier in daily routine	0	0
30. Participate in care planning by resident and/or designated surrogate	21	25
31. Privacy - telephone, visitors, couples, mail	15	29
32. Privacy in treatment, confidentiality	4	9
33. Response to complaints	16	10
34. Reprisal, retaliation	1	7
35. Not Used		
<b>E. Financial, Property (Except for Financial Exploitation)</b>		
36. Billing/charges - notice, approval, questionable, accounting wrong or denied (includes overcharge of private pay residents)	61	70



# NC State Annual Ombudsman Report for Federal FY2007 - Part I.D

Agency or organization which sponsors the State Ombudsman Program: N.C. Division of Aging and Adult Services

37. Personal funds - mismanaged, access/information denied, deposits and other money not returned (report criminal-level misuse of personal funds under A.4)	10	39
38. Personal property lost, stolen, used by others, destroyed, withheld from resident	27	27
39. Not Used		
<b>Resident Care</b>		
<b>F. Care</b>		
40. Accidental or injury of unknown origin, falls, improper handling	36	14
41. Failure to respond to requests for assistance	89	12
42. Care plan/resident assessment - inadequate, failure to follow plan or physician orders (put lack of resident/surrogate involvement under D.30)	18	2
43. Contracture	6	1
44. Medications - administration, organization	50	74
45. Personal hygiene (includes nail care & oral hygiene) and adequacy of dressing & grooming	114	40
46. Physician services, including podiatrist	20	14
47. Pressure sores, not turned	33	7
48. Symptoms unattended, including pain, pain not managed, no notice to others of changes in condition	62	22
49. Toileting, incontinent care	51	7
50. Tubes - neglect of catheter, gastric, NG tube (use D.28 for inappropriate/forced use)	4	1
51. Wandering, failure to accommodate/monitor exit seeking behavior	7	0
52. Not Used		
<b>G. Rehabilitation or Maintenance of Function</b>		
53. Assistive devices or equipment	20	9
54. Bowel and bladder training	5	0
55. Dental services	9	0
56. Mental health, psychosocial services	3	8
57. Range of motion/ambulation	12	1
58. Therapies - physical, occupational, speech	17	1
59. Vision and hearing	3	1
60. Not Used		
<b>H. Restraints - Chemical and Physical</b>		
61. Physical restraint - assessment, use, monitoring	12	4
62. Psychoactive drugs - assessment, use, evaluation	11	7
63. Not Used		
<b>Quality of Life</b>		
<b>I. Activities and Social Services</b>		
64. Activities - choice and appropriateness	9	17
65. Community interaction, transportation	25	23
66. Resident conflict, including roommates	21	16
67. Social services - availability/appropriateness/ (use G.56 for mental health, psychosocial counseling/service)	6	5
68. Not Used		
<b>J. Dietary</b>		
69. Assistance in eating or assistive devices	19	5
70. Fluid availability/hydration	24	8
71. Food service - quantity, quality, variation, choice, condiments, utensils, menu	54	104
72. Snacks, time span between meals, late/missed meals	14	15
73. Temperature	19	11
74. Therapeutic diet	27	14
75. Weight loss due to inadequate nutrition	5	6

**NC State Annual Ombudsman Report for Federal FY2007 - Part I.D**

Agency or organization which sponsors the State Ombudsman Program: N.C. Division of Aging and Adult Services

76. Not Used		
<b>K. Environment</b>		
77. Air/environment: temperature and quality (heating, cooling, ventilation, water, noise)	14	20
78. Cleanliness, pests, general housekeeping	40	57
79. Equipment/building - disrepair, hazard, poor lighting, fire safety, not secure	17	32
80. Furnishings, storage for residents	1	4
81. Infection control	3	7
82. Laundry - lost, condition	13	9
83. Odors	11	7
84. Space for activities, dining	0	3
85. Supplies and linens	6	12
86. Americans with Disabilities Act (ADA) accessibility	0	5
<b>Administration</b>		
<b>L. Policies, Procedures, Attitudes, Resources (See other complaint headings, of above, for policies on advance directives, due process, billing, management residents' funds)</b>		
87. Abuse investigation/reporting, including failure to report	5	0
88. Administrator(s) unresponsive, unavailable	16	32
89. Grievance procedure (use C for transfer, discharge appeals)	11	18
90. Inappropriate or illegal policies, practices, record-keeping	5	10
91. Insufficient funds to operate	0	1
92. Operator inadequately trained	0	2
93. Offering inappropriate level of care (for B&C/similar)	5	10
94. Resident or family council/committee interfered with, not supported	2	2
95. Not Used		
<b>M. Staffing</b>		
96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)	0	0
97. Shortage of staff	73	30
98. Staff training	15	6
99. Staff turn-over, over-use of nursing pools	4	2
100. Staff unresponsive, unavailable	28	28
101. Supervision	9	7
102. Eating Assistants	5	3
<b>Not Against Facility</b>		
<b>N. Certification/Licensing Agency</b>		
103. Access to information (including survey)	3	0
104. Complaint, response to	0	0
105. Decertification/closure	0	0
106. Sanction, including Intermediate	0	0
107. Survey process	1	0
108. Survey process - Ombudsman participation	0	0
109. Transfer or eviction hearing	2	1
110. Not Used		
<b>O. State Medicaid Agency</b>		
111. Access to information, application	7	1
112. Denial of eligibility	8	2
113. Non-covered services	0	1
114. Personal Needs Allowance	0	0
115. Services	0	0
116. Not Used		

**NC State Annual Ombudsman Report for Federal FY2007 - Part I.D**

Agency or organization which sponsors the State Ombudsman Program: N.C. Division of Aging and Adult Services

<b>P. System/Others</b>		
117. Abuse/neglect/abandonment by family member/friend/guardian or, while on visit out of facility, any other person	7	4
118. Bed shortage - placement	0	0
119. Facilities operating without a license	0	0
120. Family conflict; interference	16	8
121. Financial exploitation or neglect by family or other not affiliated with facility	6	6
122. Legal - guardianship, conservatorship, power of attorney, wills	14	7
123. Medicare	5	2
124. Mental health, developmental disabilities, including PASRR	3	1
125. Problems with resident's physician/assistant	10	4
126. Protective Service Agency	0	1
127. SSA, SSI, VA, Other Benefits/Agencies	1	6
128. Request for less restrictive placement	9	8
<b>Total, categories A through P</b>	<b>1,827</b>	<b>1,411</b>
<b>Q. Complaints About Services in Settings Other Than Long-Term Care Facilities or By Outside Provider in Long-Term Care Facilities (see instructions)</b>		
129. Home care	0	
130. Hospital or hospice	0	
131. Public or other congregate housing not providing personal care	0	
132. Services from outside provider (see instructions)	0	
133. Not Used	0	
<b>Total, Heading Q.</b>	<b>0</b>	
<b>Total Complaints*</b>	<b>3,238</b>	

\* (Add total of nursing facility complaints; B&C, ALF, RCF, similar complaints and complaints in Q, above. Place this number in Part I, C on page 1.)

## Appendix C

### Title VII, Chapter 2, Section 712 2000 Amendments to the Older Americans Act

#### Sec 712 (42 U.S.C. 3058g) State Long Term Care Ombudsman Program.

(a) **Establishment.**

- (1) **In general.** In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702 and made available to carry out this chapter, a State agency shall, in accordance with this section

- (A) establish and operate an Office of the State Long Term Care Ombudsman; and
- (B) carry out through the Office a State Long Term Care Ombudsman program.

- (2) **Ombudsman.** The Office shall be headed by an individual, to be known as the State Long Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long term care and advocacy.

- (3) **Functions.** The Ombudsman shall serve on a full time basis, and shall, personally or through representatives of the Office—

- (A) identify, investigate, and resolve complaints that—
  - (i) are made by, or on behalf of, residents and
  - (ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of
    - (I) providers, or

of providers, of long-term care services;

(II) public agencies; or

(III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

(D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

(G) (i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long term care facilities and services in the State;

- (ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and
    - (iii) facilitate public comment on the laws, regulations, policies, and actions;
  - (H)
    - (i) provide for training representatives of the Office;
    - (ii) promote the development of citizen organizations, to participate in the program; and
    - (iii) provide technical support for the development of resident and family councils to protect the well being and rights of residents; and
  - (I) carry out such other activities as the Assistant Secretary determines to be appropriate
- (4) **Contracts and arrangements.**
  - (A) **In general.** Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.
  - (B) **Licensing and certification organizations; associations.** The State agency may not enter into the contract or other arrangement described in subparagraph (A) with
    - (i) an agency or organization that is responsible for licensing or certifying long term care services in the State; or
    - (ii) an association (or an affiliate of such an association) of long term care facilities, or of any other residential facilities for older individuals.
- (5) Designation of local ombudsman entities and representatives.
  - (A) **Designation.** In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.
  - (B) **Duties.** An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency
    - (i) provide services to protect the health, safety, welfare and rights of residents;
    - (ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;
    - (iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or
    - (iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
    - (v)
      - (I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and



- (II) facilitate the ability of the public to comment on the laws, regulation, policies, and actions;
  - (vi) support the development of resident and family councils; and
  - (vii) carry out other activities that the Ombudsman determines to be appropriate.
- (C) **Eligibility for designation.** Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall
  - (i) have demonstrated capability to carry out the responsibilities of the Office;
  - (ii) be free of conflicts of interest and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves;
  - (iii) in the case of the entities, be public or nonprofit private entities; and
  - (iv) meet such additional requirements as the Ombudsman may specify.
- (D) **Policies and procedures.**
  - (i) **In general.** The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.
  - (ii) **Policies.** In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.
- (iii) **Confidentiality and disclosure.** The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.
- (b) **Procedures for Access.**
  - (1) **In General.** The State shall ensure that representatives of the Office shall have
    - (A) access to long term care facilities and residents;
    - (B)
      - (i) appropriate access to review the medical and social records of a resident, if
        - (I) the representative has the permission of the resident, or the legal representative of the resident; or
        - (II) the resident is unable to consent to the review and has no legal representative; or
      - (ii) access to the records as is necessary to investigate a complaint if
        - (I) a legal guardian of the resident refuses to give the permission;
        - (II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

- (III) the representative obtains the approval of the Ombudsman;
  - (C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long term care facilities; and
  - (D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long term care facilities.
- (2) **Procedures.** The State agency shall establish procedures to ensure the access described in paragraph (1).
- (c) **Reporting System.** The State agency shall establish a statewide uniform reporting system to
  - (1) collect and analyze data relating to complaints and conditions in long term care facilities and to residents for the purpose of identifying and resolving significant problems; and
  - (2) submit the data, on a regular basis, to
    - (A) the agency of the State responsible for licensing or certifying long term care facilities in the State;
    - (B) other State and Federal entities that the Ombudsman determines to be appropriate;
    - (C) the Assistant Secretary; and
    - (D) the National Ombudsman Resource Center established in section 202(a) (21).
- (d) **Disclosure.**
  - (1) **In general.** The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).
  - (2) **Identity of complainant or resident.** The procedures described in paragraph (1) shall
    - (A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and
    - (B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless
      - (i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;
      - (ii)
        - (I) the complainant or resident gives consent orally; and
        - (II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or
      - (iii) the disclosure is required by court order.
- (e) **Consultation.** In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long term care.
- (f) **Conflict of Interest.** The State agency shall—
  - (1) Ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;
  - (2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;

- (3) ensure that the Ombudsman
  - (A) does not have a direct involvement in the licensing or certification of a long term care facility or of a provider of a long term care service;
  - (B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long term care facility or a long term care service;
  - (C) is not employed by, or participating in the management of, a long term care facility; and
  - (D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long term care facility; and
- (4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as
  - (A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and
  - (B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.
- (g) **Legal Counsel.** The State agency shall ensure that
  - (1) (A) adequate legal counsel is available, and is able, without conflict of interest, to
    - (i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and
    - (ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and
  - (B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and
  - (2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.
- (h) **Administration.** The State agency shall require the Office to
  - (1) prepare an annual report
    - (A) describing the activities carried out by the Office in the year for which the report is prepared;
    - (B) containing and analyzing the data collected under subsection (c);
    - (C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;
    - (D) containing recommendations for
      - (i) improving quality of the care and life of the residents; and
      - (ii) protecting the health, safety, welfare, and rights of the residents;
    - (E)
      - (i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care facilities; and
      - (ii) identifying barriers that prevent the optimal operation of the program; and
    - (F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare,

and rights of residents, and  
to remove the barriers;

(2) **analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulation, and policies as the Office determines to be appropriate;**

- (3) (A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding
- (i) the problems and concerns of older individuals residing in long term care facilities; and
  - (ii) recommendations related to the problems and concerns; and
- (B) make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

(4) *strengthen and update* procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long term care providers, and the Office, that

- (A) specify a minimum number of hours of initial training;
- (B) specify the content of the training, including training relating to
  - (i) Federal, State, and local laws,

regulations, and policies,  
with respect to long term  
care facilities in the State;

- (ii) investigative techniques; and
- (iii) such other matters as the State determines to be appropriate; and

(C) specify an annual number of hours of in service training for all designated representatives;

(5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative

- (A) has received the training required under paragraph (4); and  
Ombudsman as qualified to carry out the activity on behalf of the Office;

(6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under

- (A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and
- (B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

(7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means ;

(8) *coordinate services with State and local law enforcement agencies and courts of competent jurisdiction; and*

(9) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).

- (i) **Liability.** The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

- (j) Noninterference. The State shall
  - (1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;
  - (2) prohibit retaliation and reprisals by a long term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and
  - (3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

## Appendix D

### Long-Term Care Ombudsman Program

#### Part 14D. North Carolina State Long-term Care Ombudsman Program

##### **§ 143B-181.15. Long-Term Care Ombudsman Program/Office; policy.**

It is the intent of the General Assembly to protect and improve the quality of care and life for residents through the establishment of a program to assist residents and providers in the resolution of complaints or common concerns, to promote community involvement and volunteerism in long-term care facilities, and to educate the public about the long-term care system.

The General Assembly finds that a significant number of older citizens of this State reside in long-term care facilities and are dependent on others to provide their care. It is the further intent of the General Assembly that the Department of Health and Human Services, within available resources and pursuant to its duties under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., ensure that the quality of care and life for these residents is maintained, that necessary reports are made, and that, when necessary, corrective action is taken at the Department level. (1989, c. 403, s. 1; 1995, c. 254, s. 1; 1997-443, s. 11A.118 (a).)

##### **§ 143B-181.16. Long-Term Care Ombudsman Program/Office; definition.**

Unless the content clearly requires otherwise, as used in this Article:

- (1) "Long-term care facility" means any skilled nursing facility and intermediate care facility as defined in G.S. 131A-3(4) or any adult care home as defined in G.S. 131D-20(2).
- (2) "Resident" means any person who is receiving treatment or care in any long-term care facility.
- (3) "State Ombudsman" means the State Ombudsman as defined by the Older

Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., who carries out the duties and functions established by this Article.

- (4) “Regional Ombudsman” means a person employed by an Area Agency on Aging to carry out the functions of the Regional Ombudsman Office established by this Article. (1989, c. 403, s. 1; 1995, c. 254, s. 2; c. 535, s. 35.)

**§ 143B-181.17. Office of State Long-Term Care Ombudsman Program/Office; establishment.**

The Secretary of Department of Health and Human Services shall establish and maintain the Office of State Long-Term Ombudsman in the Division of Aging. The Office shall carry out the functions and duties required by the Older Americans Act of 1965, as amended. This Office shall be headed by a State Ombudsman who is a person qualified by training and with experience in geriatrics and long-term care. The Attorney General shall provide legal staff and advice to this Office. (1989, c. 403, s. 1; 1997-443, s. 11A.118 (a).)

**§ 143B-181.18. Office of State Long-Term Care Ombudsman Program/State Ombudsman duties.**

The State Ombudsman shall:

- (1) Promote community involvement with long-term care providers and residents of long-term care facilities and serve as liaison between residents, residents’ families, facility personnel, and facility administration;
- (2) Supervise the Long-Term Care Program pursuant to rules adopted by the Secretary of the Department of Health and Human Services pursuant to G.S. 143B-10;
- (3) Certify regional ombudsmen. Certification requirements shall include an internship, training in the aging process, complaint resolution, long-term care issues, mediation techniques, recruitment and training of volunteers, and relevant federal, State, and local laws, policies, and standards;

- (4) Attempt to resolve complaints made by or on behalf of individuals who are residents of long-term care facilities, which complaints relate to administrative action that may adversely affect the health, safety, or welfare of residents;

- (5) Provide training and technical assistance to regional ombudsmen;
- (6) Establish procedures for appropriate access by regional ombudsmen to long-term care facilities and residents’ records including procedures to protect the confidentiality of these records and to ensure that the identity of any complainant or resident will not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.;
- (7) Analyze data relating to complaints and conditions in long-term care facilities to identify significant problems and recommend solutions;

- (8) Prepare an annual report containing data and findings regarding the types of problems experienced and complaints reported by residents as well as recommendations for resolutions of identified long-term care issues;
- (9) Prepare findings regarding public education and community involvement efforts and innovative programs being provided in long-term care facilities; and

- (10) Provide information to public agencies, and through the State Ombudsman, to legislators, and others regarding problems encountered by residents or providers as well as recommendations for resolution. (1989, c. 403, s. 1; 1995, c. 254, s. 3; 1997-443, s. 11A.118(a).)

**§ 143B-181.19. Office of Regional Long-Term Care Ombudsman; Regional Ombudsman; duties.**

- (a) An Office of Regional Ombudsman Program shall be established in each of the Area Agencies on Aging, and shall be headed by a Regional



Ombudsman who shall carry out the functions and duties of the Office. The Area Agency on Aging administration shall provide administrative supervision to each Regional Ombudsman.

(b) Pursuant to policies and procedures established by the State Office of Long-Term Care Ombudsman, the Regional Ombudsman shall:

- (1) Promote community involvement with long-term care facilities and residents of long-term care facilities and serve as a liaison between residents, residents' families, facility personnel, and facility administration;
- (2) Receive and attempt to resolve complaints made by or on behalf of residents in long-term care facilities;
- (3) Collect data about the number and types of complaints handled;
- (4) Work with long-term care providers to resolve issues of common concern;
- (5) Work with long-term care providers to promote increased community involvement;
- (6) Offer assistance to long-term care providers in staff training regarding residents' rights;
- (7) Report regularly to the office of State Ombudsman about the data collected and about the activities of the Regional Ombudsman;
- (8) Provide training and technical assistance to the community advisory committees; and
- (9) Provide information to the general public on long-term care issues. (1989, c. 403.)

**§ 143B-181.20. State/Regional Long-Term Care Ombudsman; authority to enter; cooperation of government agencies; communication with residents.**

(a) The State and Regional Ombudsman may enter any long-term care facility and may have reasonable access to any resident in the reasonable pursuit of his function. The Ombudsman may communicate privately and confidentially with residents of the facility individually or in groups. The Ombudsman shall have access to the patient records as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. §3001 et seq., and under procedures established

by the State Ombudsman pursuant to G.S. 143B-181.18(6). Entry shall be conducted in a manner that will not significantly disrupt the provision of nursing or other care to residents and if the long-term care facility requires registration of all visitors entering the facility, then the State or Regional Ombudsman must also register. Any State or Regional Ombudsman who discloses any information obtained from the patient's records except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., is guilty of a Class 1 misdemeanor.

(b) The State or Regional Ombudsman shall identify himself as such to the resident, and the resident has the right to refuse to communicate with the Ombudsman.

(c) The resident has the right to participate in planning any course of action to be taken on his behalf by the State or Regional Ombudsman, and the resident has the right to approve or disapprove any proposed action to be taken on his behalf by the Ombudsman.

(d) The State or Regional Ombudsman shall meet with the facility administrator or person in charge before any action is taken to allow the facility the opportunity to respond, provide additional information, or take appropriate action to resolve the concern.

(e) The State and Regional Ombudsman may obtain from any government agency, and this agency shall provide, that cooperation, assistance, services, data, and access to files and records that will enable the Ombudsman to properly perform his duties and exercise his powers, provided this information is not privileged by law.

(f) If the subject of the complaint involves suspected abuse, neglect, or exploitation, the State or Regional Ombudsman shall notify the county department of social services' Adult Protection Services section of the county department of social services, pursuant to Article 6 of Chapter 108A of the General Statutes. (1989, c. 403, s. 1; 1993, c. 539, s. 1038; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 254, s. 4.)

**§ 143B-181.21. State/Regional Long-Term Care Ombudsman; resolution of complaints.**

- (a) Following receipt of a complaint, the State or Regional Ombudsman shall attempt to resolve the complaint using, whenever possible, informal technique of mediation, conciliation, and persuasion.
- (b) Complaints or conditions adversely affecting residents of long-term care facilities that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the State or Regional Ombudsman to the appropriate licensure agency pursuant to G.S. 131E-100 through 110 and G.S.131D-2. (1989, c. 403.)

**§ 143B-181.22. State/Regional Long-Term Care Ombudsman; confidentiality.**

The identity of any complainant, resident on whose behalf a complaint is made, or any individual providing information on behalf of the resident or complainant relevant to the attempted resolution of the complaint along with the information produced by the process of complaint resolution is confidential and shall be disclosed only as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq. (1989, c. 403, s. 1;1995, c. 254, s. 5.)

**§ 143B-181.23. State/Regional Long-Term Care Ombudsman; prohibition of retaliation.**

No person shall discriminate or retaliate in any manner against any resident or relative or guardian of a resident, any employee of a long-term care facility, or any other person because of the making of a complaint or providing of information in good faith to the State Ombudsman or Regional Ombudsman. (1989, c. 403.)

**§ 143B-181.24. Office of State/Regional Long-Term Care Ombudsman; immunity from liability.**

No representative of the Office shall be liable for good faith performance of official duties. (1989, c. 403.)

**§ 143B-181.25. Office of State/Regional Long-Term Care Ombudsman; penalty for willful interference.**

Willful or unnecessary obstruction with the State or Regional Long-Term Care Ombudsman in the performance of his official duties is a Class 1 misdemeanor. (1989, c. 403; 1993, c. 539, s. 1039; 1994, Ex. Sess., c. 24, s. 14(c).)

## Appendix E

### Long Term Care Ombudsman Program

Sharon Wilder (sharon.wilder@ncmail.net), State Long Term Care Ombudsman

Kathryn Lanier (kathryn.lanier@ncmail.net), Ombudsman Program Specialist

Denise Rogers (denise.rogers@ncmail.net), Ombudsman/Elder Rights Specialist

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North Carolina Regional LTC Ombudsmen	
A	B
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C	D
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## North Carolina Regional LTC Ombudsmen

G	I
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North Carolina Regional LTC Ombudsmen	
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## Appendix F

### § 131D-31. Adult care home community advisory committees.

- (a) **Statement of Purpose.** It is the intention of the General Assembly that community advisory committees work to maintain the intent of the Adult Care Home Residents' Bill of Rights within the licensed adult care homes in this State. It is the further intent of the General Assembly that the committees promote community involvement and cooperation with adult care homes to ensure quality care for the elderly and disabled adults.
  - (b) **Establishment and Appointment of Committees.**
    - (1) A community advisory committee shall be established in each county that has at least one licensed adult care home, shall serve all the homes in the county, and shall work with each of these homes for the best interests of the residents. In a county that has one, two, or three adult care homes with 10 or more beds, the committee shall have five members.
    - (2) In a county with four or more adult care homes with 10 or more beds, the committee shall have one additional member for each adult care home with 10 or more beds in excess of three, and may have up to five additional members at the discretion of the county commissioners, not to exceed a maximum of 25 members. In each county with four or more adult care homes with 10 or more beds, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each adult care home in the county. Each member must serve on at least one subcommittee.
    - (3) In counties with no adult care homes with 10 or more beds, the committee shall have five members.
  - (4) The boards of county commissioners are encouraged to appoint the Adult Care Home Community Advisory Committees. Of the members, a minority (not less than one-third, but as close to one-third as possible) shall be chosen from among persons nominated by a majority of the chief administrators of adult care homes in the county. If the adult care home administrators fail to make a nomination within 45 days after written notification has been sent to them requesting a nomination, these appointments may be made without nominations. If the county commissioners fail to appoint members to a committee by July 1, 1983, the appointments shall be made by the Assistant Secretary for Aging, Department of Health and Human Services, no sooner than 45 days after nominations have been requested from the adult care home administrators, but no later than October 1, 1983. In making appointments, the Assistant Secretary for Aging shall follow the same appointment process as that specified for the County Commissioners.
- Regardless of how many members a particular community advisory committee is required to have, at least one member of each committee shall be a person involved in the area of mental retardation.
- (c) **Joint Nursing and Adult Care Home Community Advisory Committees.**

Appointment to the Nursing Home Community Advisory Committees shall preclude appointment to the Adult Care Home Community Advisory Committees except where written approval to combine these committees is obtained from the Assistant Secretary for Aging, Department of Health and Human Services. Where this approval is obtained, the Joint Nursing and Adult Care Home Community Advisory Committee shall have the membership



required of Nursing Home Community Advisory Committees and one additional member for each adult care home with 10 or more beds licensed in the county. In counties with no adult care homes with 10 or more beds, there shall be one additional member for every four other types of adult care homes in the county. In no case shall the number of members on the Joint Nursing and Adult Care Home Community Advisory Committee exceed 25. Each member shall exercise the statutory rights and responsibilities of both Nursing Home Committees and Adult Care Home Committees. In making appointments to this joint committee, the county commissioners shall solicit nominations from both nursing and adult care home administrators for the appointment of approximately (but no more than) one-third of the members.

- (d) **Terms of Office.** Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a two- or three-year term at the county commissioners' discretion to ensure staggered terms of office.
- (e) **Vacancies.** Any vacancy shall be filled by appointment of a person for a one-year term. If this vacancy is in a position filled by an appointee nominated by the chief administrators of adult care homes within the county, then the county commissioners shall fill the vacancy from persons nominated by a majority of the chief administrators. If the adult care home administrators fail to make a nomination by registered mail within 45 days after written notification has been sent to them requesting a nomination, this appointment may be made without nominations. If the county commissioners fail to fill a vacancy, the vacancy may be filled by the Assistant Secretary for Aging, Department of Health and Human Services no sooner than 45 days after the commissioners have been notified of the appointment or vacancy.

- (f) **Officers.** The committee shall elect from its members a chair, to serve a one-year term.

- (g) **Minimum Qualifications for Appointment.**

Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by the committee, or employee or governing board member of a home served by the committee, or immediate family member of a resident in a home served by the committee may be a member of that committee. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, Department of Health and Human Services.

- (h) **Training.** The Division of Aging, Department of Health and Human Services, shall develop training materials, which shall be distributed to each committee member. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under G.S. 131D-32. The Division of Aging, Department of Health and Human Services, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.

- (i) Any written communication made by a member of adult care home advisory committee within the course and scope of the member's duties, as specified in G.S. 131D-32, shall be privileged to the extent provided in this subsection. This privilege shall be a defense in a cause of action for libel if the member was acting in good faith and the statements and communications do not amount to intentional wrongdoing.

To the extent that any adult care home advisory committee or any member is covered by liability insurance, that committee or member shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance. (1981, c.923, s. 1; 1983, c. 88, s. 1; 1987, c. 682, s. 2; 1995, c. 535, s. 14; 1997-176, s. 2; 1997-443, s. 11A.118(a).)

**§ 131E-128. Nursing home advisory committees.**

(a) It is the purpose of the General Assembly that community advisory committees work to maintain the intent of this Part within the nursing homes in this State, including nursing homes operated by hospitals licensed under Article 5 of G.S. Chapter 131E. It is the further purpose of the General Assembly that the committees promote community involvement and cooperation with nursing homes and an integration of these homes into a system of care for the elderly.

(b) (1) A community advisory committee shall be established in each county which has a nursing home, including a nursing home operated by a hospital licensed under Article 5 of G.S. Chapter 131E, shall serve all the homes in the county, and shall work with each home in the best interest of the persons residing in each home. In a county which has one, two, or three nursing homes, the committee shall have five members. In a county with four or more nursing homes, the committee shall have one additional member for each nursing home in excess of three, and may have up to five additional members per committee at the discretion of the county commissioners.

(2) In each county with four or more nursing homes, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each nursing home in the county. Each member must serve on at least one subcommittee.

(3) Each committee shall be appointed by the board of county commissioners. Of the members, a minority (not less than one-third, but as close to one-third as possible) must be chosen from among persons nominated by a majority of the chief administrators of nursing homes in the county and of the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes. If the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes fail to make a nomination within 45 days after written notification has been sent to them by the board of county commissioners requesting a nomination, these appointments may be made by the board of county commissioners without nominations.

(c) Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a three-year term. Persons who were originally nominees of nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, or who were appointed by the board of county commissioners when the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make nominations, may not be reappointed without the consent of a majority of the nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes within the county. If the nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes fail to approve or reject the reappointment within 45 days of being requested by the board of county commissioners, the

commissioners may reappoint the member if they so choose.

- (d) Any vacancy shall be filled by appointment of a person for a one-year term. Any person replacing a member nominated by the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes or a person appointed when the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make a nomination shall be selected from among persons nominated by the administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, as provided in subsection (b). If the county commissioners fail to appoint members to a committee, or fail to fill a vacancy, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have been notified of the appointment or vacancy if nomination or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes is not required. If nominations or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes is required, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have received the nomination or approval, or no sooner than 45 days after the 45-day period for action by the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes.
- (e) The committee shall elect from its members a chair, to serve a one-year term.
- (f) Each member must be a resident of the county which the committee serves. No person or immediate family member of a

person with a financial interest in a home served by a committee, or employee or governing board member or immediate family member of an employee or governing board member of a home served by a committee, or immediate family member of a patient in a home served by a committee may be a member of a committee. Membership on a committee shall not be considered an office as defined in G.S. 128-1 or G.S. 128-1.1. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, which shall supply a copy to the Division of Facility Services.

- (g) The Division of Aging, Department of Health and Human Services, shall develop training materials which shall be distributed to each committee member and nursing home. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under subsection (h) of this section. The Division of Aging, Department of Health and Human Services, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.
- (h)
  - (1) Each committee shall apprise itself of the general conditions under which the persons are residing in the homes, and shall work for the best interests of the persons in the homes. This may include assisting persons who have grievances with the home and facilitating the resolution of grievances at the local level.
  - (2) Each committee shall quarterly visit the nursing home it serves. For each official quarterly visit, a majority of the committee members shall be present. In addition, each committee

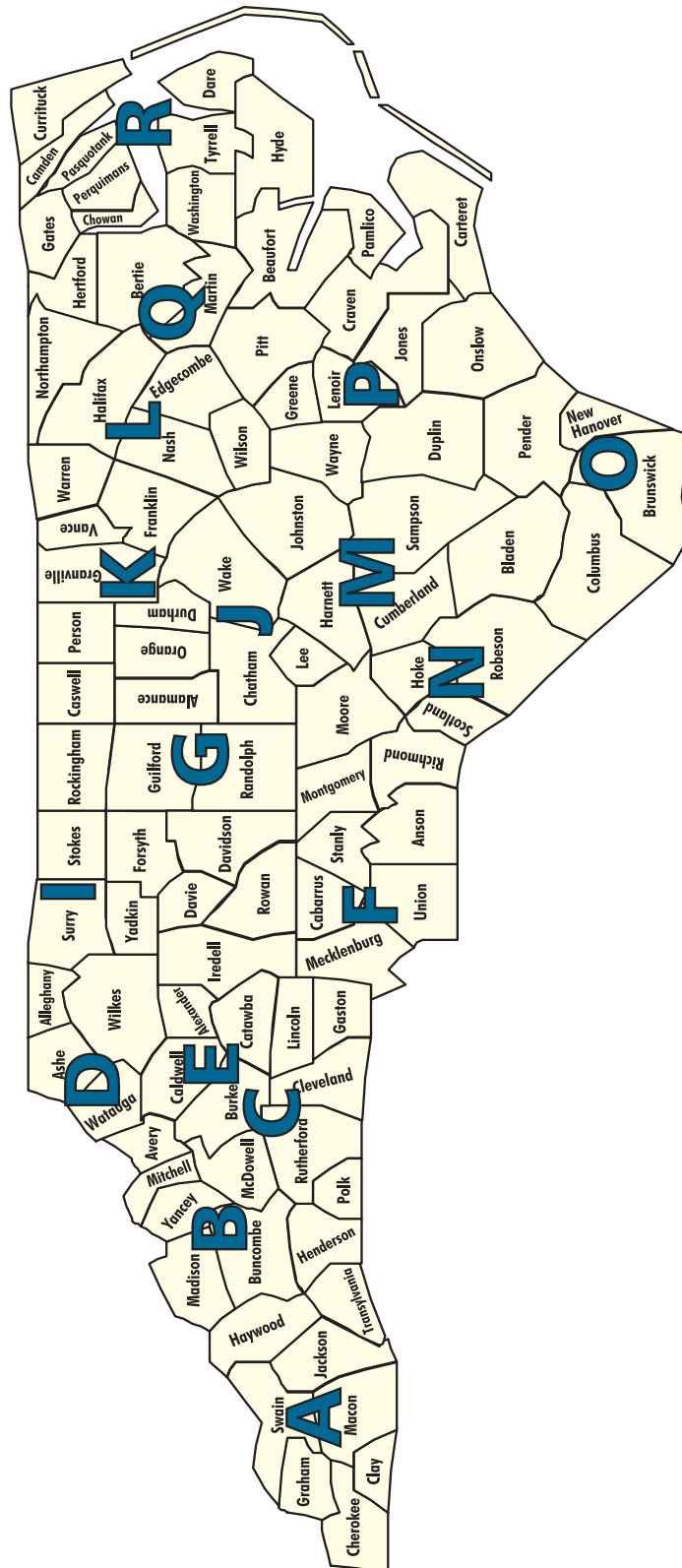
may visit the nursing home it serves whenever it deems it necessary to carry out its duties. In counties with four or more nursing homes, the subcommittee assigned to a home shall perform the duties of the committee under this subdivision, and a majority of the subcommittee members must be present for any visit.

To the extent that any nursing home advisory committee or any member thereof is covered by liability insurance, that committee or member shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance. (1977, c.897, s. 2; 1977, 2nd Sess., c. 1192, s. 1; 1983, c. 143, ss. 4-9; c. 775, s. 1; 1987, c. 682, s. 1; 1995, c. 254, s. 7; 1997-176, s. 1; 1997-443, s. 11A.118(a).)

- (3) Each member of a committee shall have the right between 10:00 A.M. and 8:00 P.M. to enter into the facility the committee serves in order to carry out the members' responsibilities. In a county where subcommittees have been established, this right of access shall be limited to homes served by those subcommittees to which the member has been appointed.
- (4) The committee or subcommittee may communicate through its chair with the Department or any other agency in relation to the interest of any patient. The identity of any complainant or resident involved in a complaint shall not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.
- (5) Each home shall cooperate with the committee as it carries out its duties.
- (6) Before entering into any nursing home, the committee, subcommittee, or member shall identify itself to the person present at the facility who is in charge of the facility at that time.

- (i) Any written communication made by a member of a nursing home advisory committee within the course and scope of the member's duties, as specified in G.S. 131E-128, shall be privileged to the extent provided in this subsection. This privilege shall be a defense in a cause of action for libel if the member was acting in good faith and the statements or communications do not amount to intentional wrongdoing.

## Area Agencies on Aging













State of North Carolina  
Michael F. Easley, Governor

N.C. Department of Health and Human Services  
Dempsey Benton, Secretary  
Dennis W. Streets, Director, Division of Aging and Adult Services  
Sharon C. Wilder, State Long Term Care Ombudsman

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